

Agenda  
Town of Duck Council  
Paul F. Keller Meeting Hall  
January 3, 2024  
1:00 p.m.  
Regular Meeting

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1. Call to Order
  - A. Pledge of Allegiance
  - B. Moment of Silence
2. Public Comments
3. Consent Agenda
  - A. Budget Amendment
4. Special Presentations
  - A. None at This Time
5. Quasi-Judicial Public Hearing
  - A. None at This Time
6. Legislative Public Hearing
  - A. None at This Time
7. Old Business/Items Deferred from Previous Meetings
  - A. Discussion/Consideration of Extending the Contract between the Town of Duck and Sandski, LLC d/b/a Surf Rescue including Evaluating Cost and Level of Service Options
  - B. Discussion/Consideration of Ordinance 23-16, an Ordinance Defining and Regulating Businesses and Registration
  - C. Discussion/Consideration of an Amendment to the Town of Duck Fee Schedule

8. New Business
  - A. Discussion/Consideration of Appointing an Individual to Serve on the Planning Board
  - B. Discussion/Consideration of Appointing an Individual to Serve on the Board of Adjustment
9. Items Referred to and Presentations from the Town Attorney
10. Items Referred to and Presentations from the Town Manager
  - A. Departmental Updates
  - B. November FY 2024 Financial Presentation
11. Mayor's Agenda
12. Council Member's Agenda
13. Other Business
  - A. Additional Public Comments
14. Adjournment

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #1:**

Call to Order

- A.     Pledge of Allegiance
- B.     Moment of Silence

**RECOMMENDED ACTION:**

- Call the Town Council to Order
- Conduct the Pledge of Allegiance
- Hold a Moment of Silence

**SUMMARY OF INFORMATION:**

The Mayor will call the Council to order and the Council will lead the audience in the recitation of the Pledge of Allegiance and will hold a Moment of Silence.

**ATTACHMENTS:**

- None

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #2:**

Public Comments

**RECOMMENDED ACTION:**

- None required.

**SUMMARY OF INFORMATION:**

The Council will receive comments from the public.

**ATTACHMENTS:**

- None

**AGENDA: January 3, 2024**

**Regular Meeting**

**ITEM #3:**

Consent Agenda

A. Budget Amendment

**RECOMMENDED ACTION:**

- Approve the Consent Agenda

(As a reminder, the Consent Agenda is intended to be voted on and approved as one motion. If discussion is required on individual items, a motion must be made to remove that item from the Consent Agenda and add it to the Regular Agenda.)

**SUMMARY OF INFORMATION:**

The Consent Agenda includes a budget amendment. The budget amendment increases the Public Facilities Department budget as well as the Building Rental Fees and Fund Balance Appropriated revenue accounts by \$45,000 to include approved repairs to the rental property at 145 Buffell Head Road. Council is asked to approve the budget amendment.

**ATTACHMENTS:**

- Budget Amendment Sheet

**Town of Duck, North Carolina**  
**FY 2024**  
**Budget Amendment**

Amendment No.: 4  
Department: Public Facilities Date: 1/3/2024

Budget Amendment					
Revenues	Fund	Dept. Code	Acct. Code	Obj. Code	Requested Amount
Building Rental Fees	100	3800	3841	-	\$30,000
Fund Balance Appropriated	100	-	3991	-	\$15,000
				TOTAL:	\$45,000
Expenditures	Fund	Dept. Code	Acct. Code	Obj. Code	Requested Amount
Public Facilities - Repairs & Maintenance	100	4190	190	450	\$45,000
				TOTAL:	\$45,000
Reason for Amendment:					
This amendment increases the Public Facilities Department budget as well as the Building Rental Fees and Fund Balance Appropriated revenue accounts by \$45,000, to include approved repairs to on the rental property at 145 Buffell Head Rd.					
Approved: _____ Denied: _____					
Date: _____					

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #4:**

Special Presentations

A.        None at This Time

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #5:**

Quasi-Judicial Public Hearing

A. None at This Time

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None



**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #6:**

Legislative Public Hearings

A.        None at This Time

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #7:**

Old Business/Items Deferred from Previous Meetings

- A.    Discussion/Consideration of Extending the Contract between the Town of Duck and Sandski, LLC d/b/a Surf Rescue including Evaluating Cost and Level of Service Options
- B.    Discussion/Consideration of Ordinance 23-16, an Ordinance Defining and Regulating Businesses and Registration
- C.    Discussion/Consideration of an Amendment to the Town of Duck Fee Schedule

**RECOMMENDED ACTION:**

- See attachments

**SUMMARY OF INFORMATION:**

- See attachments

**ATTACHMENTS:**

- See attachments

## **AGENDA:        January 3, 2024**

## **Regular Meeting**

### **ITEM #7A:**

Old Business/Items Deferred from Previous Meetings

- A.    Discussion/Consideration of Extending the Contract between the Town of Duck and Sandski, LLC d/b/a Surf Rescue, including Evaluating Cost and Level of Service Options

### **RECOMMENDED ACTION:**

- Discuss the contract renewal and provide direction to staff regarding the preparation of a contract amendment to extend the term of said contract.

### **SUMMARY OF INFORMATION:**

On October 2, 2019 the Town of Duck entered into a five-year contract with Sandski, LLC to provide surf rescue services to the Town. The contract contains two optional extension periods covering Fiscal Year 2024-2025 and Fiscal Year 2025-2026. Staff provided, per the contract, initial notice to the contractor of an intent to consider exercising the first of these two extension options.

The contractor, Mirek Dabrowski, having experienced recent increases in insurance and other expenses, is requesting a total of \$760,000 for this first extension period. The current contract price, as amended, for Fiscal Year 2023-24 is \$626,000.

Following an initial conversation at the December 6, 2023 Town Council meeting, Mr. Dabrowski examined his level of service and looked at a couple of options to reduce this level and thus reduce contract costs.

Alternate 1: Total cost \$700,000 (\$60,000 savings)

- Reduces supervisor coverage between May 15 and Labor Day from 12 to 10 per hours day.
- Ends the "season" on September 30 rather than October 15
- Changes from 8 additional stands (beginning June 15) to 7 additional stands and ends the higher number of stands a week sooner (from August 17 to August 10).
- Eliminates roving patrols between Labor Day and October 15

Alternate 2: Total cost \$660,000 (\$100,000 savings)

- Reduces supervisor coverage between May 15 and Labor Day from 12 to 10 per hours day and begins the supervisor staffing a week later (from May 15 to May 22).
- Ends the "season" on September 30 rather than October 15
- Reduces the base number of stands from 6 to 5
- Changes from 8 additional stands (beginning June 15) to 6 additional stands and ends the higher number of stands a week sooner (from August 17 to August 10).
- Changes from 2 roving patrols between June 15 and August 17 to 1 roving patrol
- Eliminates roving patrols between Labor Day and October 15

The table on the following page shows the changes in level of service described above. The changes are highlighted in yellow.

## **ATTACHMENTS:**

- Contract dated October 2, 2019

Current Level of Service      \$760,000					
Supervisor	May 14	Labor Day	8:00 am	8:00 pm	12
Supervisor	Labor Day	Oct 31	7:00 am	7:00 pm	12
6 stands	Memorial Day Weekend	Labor Day	10:00 am	6:00 pm	8
2 roving patrols	Memorial Day Weekend	Labor Day	10:00 am	6:00 pm	8
8 stands	June 15	August 17	10:00 am	6:00 pm	8
2 roving patrols	June 15	August 17	10:00 am	6:00 pm	8
4 roving patrols	Labor Day	Oct 15	7:00 am	7:00 pm	12
Alternate 1      \$700,000					
Supervisor	May 14	Labor Day	9:00 am	7:00 pm	10
Supervisor	Labor Day	September 30	10:00 am	6:00 pm	8
6 stands	Memorial Day Weekend	Labor Day	10:00 am	6:00 pm	8
2 roving patrols	Memorial Day Weekend	September 30	10:00 am	6:00 pm	8
7 stands	June 15	August 10	10:00 am	6:00 pm	8
2 roving patrols	June 15	August 17	10:00 am	6:00 pm	8
4 roving patrols	Labor Day	Oct 15	7:00 am	7:00 pm	12
Alternate 2      \$660,000					
Supervisor	May 22	Labor Day	9:00 am	7:00 pm	10
Supervisor	Labor Day	September 30	10:00 am	6:00 pm	8
5 stands	Memorial Day Weekend	Labor Day	10:00 am	6:00 pm	8
2 roving patrols	Memorial Day Weekend	September 30	10:00 am	6:00 pm	8
6 stands	June 15	August 10	10:00 am	6:00 pm	8
1 roving patrol	June 15	August 17	10:00 am	6:00 pm	8
4 roving patrols	Labor Day	Oct 15	7:00 am	7:00 pm	12

THIS CONTRACT (this "CONTRACT") is made and entered into this the 2<sup>nd</sup> day of October, 20 19, by and between TOWN OF DUCK, a body corporate and politic existing pursuant to the laws of the State of North Carolina, (hereinafter referred to as "the TOWN") party of the first part and SANDSKI, L.L.C. d/b/a SURF RESCUE, SS/EID# **56-2195849**, (hereinafter referred to as "CONTRACTOR"), party of the second part.

**1. SERVICES TO BE PROVIDED AND AGREED CHARGES**

The services and/or material to be furnished under this CONTRACT (hereinafter referred to collectively as "SERVICES") and agreed charges are as follows:

a. CONTRACTOR shall provide ocean rescue services to the members of the public utilizing the ocean, ocean beaches, and the sound. This area incorporates all water rescues eastward of the dune and all water areas of the Currituck sound west of the shoreline of the Town of Duck up to Currituck County. CONTRACTOR shall conform to the 911 dispatch protocol for all non-police matters.

b. CONTRACTOR shall meet all standards set forth by the United States Lifesaving Association (USLA) for ocean lifeguards as detailed in the latest edition of the USLA booklet, "Guidelines for Open Water Lifeguard Training and Standards." A trained lifeguard will meet and maintain the following standards and requirements and will man each lifeguard position:

1. Will be at least 18 years of age at the time of the first work day. The Town Manager may waive this requirement if a specific lifeguard has sufficient experience to perform the job. In no case shall a lifeguard be hired who is less than 16 years of age.
2. Will have successfully completed ocean rescue training or have two years of experience as an ocean lifeguard.
3. Will have completed a basic CPR course of instruction.
4. Will have completed a basic first-aid course of instruction.
5. Will meet and maintain minimum physical qualifications for running, swimming and general fitness as established by the USLA training and standards guides.
6. Will be familiar with the operation and use of all rescue equipment and devices provided for use in water rescue operations.
7. Will comply with all rules and regulations set forth by the TOWN.

c. CONTRACTOR shall provide ocean rescue services from May 1 through October 31 of each year from 10:00 a.m. through 6:00 p.m. each day. Additionally, during the periods of May 15 through Labor Day from 8:00 a.m. to 8:00 p.m. and from the day after Labor Day until October 15 from 7 a.m. to 7:00 p.m. a minimum of one lifeguard supervisor shall be on location within the TOWN to respond to calls for service. Ocean rescue services will be provided, which includes a supervisor, from May 1 through October 31 of each year; however, the exact number of personnel performing these services will vary

Initials: SL MP

depending on the time of year, weather conditions and beach population. From Memorial Day Weekend until Labor Day Weekend the equivalent of six (6) fixed lifeguard stands and two roving patrols shall be provided at locations agreed to between the CONTRACTOR and TOWN. Eight (8) additional fixed lifeguard stands and two (2) additional roving patrols will be provided during the peak summer months (on or around the third week of June through on or around the second week of August) at locations agreed to between the CONTRACTOR and TOWN. A minimum of four (4) roving patrols will operate in FY 2020 from Labor Day weekend through October 15. All lifeguard services and operations may be altered with an amendment to this CONTRACT approved by the TOWN and CONTRACTOR.

d. CONTRACTOR shall provide, at a minimum, the following equipment:

1. Fixed lifeguard stands, the numbers of which are set forth in subsection 1(c).
2. Portable communication equipment approved by the TOWN. \*\*
3. Personal protective equipment that meets or exceeds OSHA specifications.
4. A uniform identifying the individual as a "Lifeguard" that is distinctive in color.
5. Binoculars for each Lifeguard.
6. Rescue buoy for each Lifeguard.
7. Swim fins for each Lifeguard.
8. Whistle for each Lifeguard.
9. Four Wheel Drive Truck.
10. ATV's (2-4)
11. Jet Ski (1-3)

\*\*Note: the portable communication equipment mentioned above is a repeater based VHF system. Currently two repeaters are available in case one breaks down. These units are operational 24 hours a day. The TOWN also uses this system during special events where radio communications are necessary. The CONTRACTOR shall work to continuously upgrade the programming and increasing equipment reliability with the help and in conjunction with the Duck Fire Department.

- e. CONTRACTOR shall provide a "red flag" warning system to alert the public to dangerous surf conditions. Upon making the determination that dangerous surf conditions exist, the CONTRACTOR's supervisor shall alert the Town Manager, Public Information Officer, Chief of Police and Fire Chief. The CONTRACTOR shall maintain and utilize current flagpoles and flags. If new flagpoles or flags are required, the CONTRACTOR shall coordinate with the TOWN for the purchase of the items. CONTRACTOR shall also develop and implement additional methods to alert the public to dangerous surf conditions through discussion with the Town Manager, Public Information Officer, Chief of Police, Fire Chief and other TOWN staff and as agreed to by the CONTRACTOR and the TOWN.
- f. CONTRACTOR will not allow any advertising for any organization, business, service, person, or entity without the advance written permission of the Town Manager in each instance.
- g. CONTRACTOR, as a service to the users of the beaches and to assist in defraying some of the cost, shall be allowed to provide chairs and umbrellas for rent to users of the beaches. However, while on duty, lifeguards shall not conduct any rental business. CONTRACTOR shall provide for a service agent to conduct rental business at CONTRACTOR'S expense.

- h. CONTRACTOR shall be authorized to maintain a maximum of four small low-profile boxes on the beach that will be removed during storm events and at the end of the summer season.
- i. CONTRACTOR shall be responsible for maintaining and keeping all areas of the beach free from trash and debris, including the removal of tents and other items left overnight per the TOWN's Code of Ordinances. If the amount of debris exceeds normal expected amounts due to a storm or other condition, the TOWN may negotiate with CONTRACTOR for debris removal services.
- j. CONTRACTOR shall coordinate with the TOWN, including the Chief of Police, the Fire Chief and the County for adequate radio communications.
- k. CONTRACTOR shall keep daily logs to include beach population reports, activity summaries and violations reported and shall submit these logs on a weekly basis to the Town Manager.

TOWN shall pay CONTRACTOR the following amounts for services rendered under this CONTRACT on a fiscal year basis (July 1 through June 30). All lifeguard services and operations may be altered with an amendment to this CONTRACT approved by the TOWN and CONTRACTOR.

FY 2020	\$486,000
FY 2021	\$515,500
FY 2022	\$531,500
FY 2023	\$548,000
FY 2024	\$566,000
FY 2025	Optional extension (See Section 2(b) below)
FY 2026	Optional extension (See Section 2(b) below)

## **2. TERM OF CONTRACT; OPTIONAL EXTENSION; AVAILABILITY OF FUNDS**

- a. The term of this CONTRACT shall be from July 1, 2019 to June 30, 2024.
- b. The TOWN shall have the option (but not the obligation) to extend this CONTRACT for up to two (2) additional terms of one (1) year each, i.e. FY 2025 and FY 2026. The TOWN may exercise this option by providing the CONTRACTOR with notice no later than the end of Fiscal Year 2023 in the case of Fiscal Year 2025, and no later than the end of Fiscal Year 2024 in the case of Fiscal Year 2026. The cost and scope of the SERVICES for such optional terms shall be negotiated and memorialized in an amendment to this CONTRACT for each optional term, or a new contract, which amendment or contract must be approved by both parties in order for such amendment or contract to become effective and binding.
- c. Notwithstanding anything in this CONTRACT to the contrary, this CONTRACT is subject to the availability of funds to purchase the specified SERVICES and may be terminated at any time if such funds become unavailable.

## **3. PAYMENT TO CONTRACTOR**

The TOWN agrees to pay at the rates specified for SERVICES satisfactorily performed in accordance with this CONTRACT. Unless otherwise specified by a schedule developed by CONTRACTOR and TOWN prior to May 1 of each year, the CONTRACTOR shall submit an itemized invoice to the TOWN by the end of the month

Initials: CTL [Signature]



during which SERVICES are performed. Payment will be processed promptly upon receipt and approval by the TOWN of the invoice.

#### **4. INDEPENDENT CONTRACTOR**

Both the TOWN and the CONTRACTOR agree that the CONTRACTOR shall act as an independent contractor and shall not represent itself as an agent or employee of the TOWN for any purpose in the performance of the CONTRACTOR'S duties under this CONTRACT. Accordingly, the CONTRACTOR shall be responsible for payment of all Federal, State and local taxes arising out of the CONTRACTOR'S activities in accordance with this CONTRACT, including by way of illustration but not limitation, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, and any other taxes or business license fees as required.

In performing the SERVICES, the CONTRACTOR is acting as an independent contractor and shall perform SERVICES in accordance with currently approved methods and practice in the CONTRACTOR'S professional capacity and in accordance with the standards of applicable professional organizations and licensing agencies.

The CONTRACTOR shall comply with all requirements of E-Verify, Article 2 of Chapter 64 of the North Carolina General Statutes, and shall attest to such with the affidavit attached to this CONTRACT.

#### **5. INSURANCE AND INDEMNITY**

The CONTRACTOR shall indemnify and save harmless the TOWN, its agents and employees from and against all actions, liability, claims, suits, damages, cost or expenses of any kind which may be brought or made against the TOWN or which the TOWN must pay and incur by reason of or in any manner resulting from injury, loss or damage to persons or property resulting from negligent performance of or failure to perform any of its obligations under the terms of this CONTRACT.

The CONTRACTOR shall be fully responsible to the TOWN for the acts and omissions of its sub-contractors and of persons either directly or indirectly employed by it, as the CONTRACTOR is for the acts and omissions of persons directly employed by it.

In addition, the CONTRACTOR shall comply with the North Carolina Worker's Compensation Act (the "ACT") and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by the ACT. In the event the CONTRACTOR is excluded from the requirements of the ACT and does not voluntarily carry workers' compensation coverage, the CONTRACTOR shall carry or cause its employees to carry adequate medical/ accident insurance to cover any injuries sustained by its employees or agents during the performance of SERVICES.

The CONTRACTOR agrees to furnish the TOWN proof of compliance with the ACT or adequate medical/ accident insurance coverage upon request.

The CONTRACTOR shall acquire commercial general liability insurance coverage with a minimum limit of \$2,000,000.00 general aggregate, products/completed operations aggregate, personal and advertising injury and each occurrence including premises and operations. Independent contractors, products and completed

operations, broad form property damage, explosion/collapse/underground coverage, and contractual liability shall be written on an as occurrence basis.

The CONTRACTOR shall acquire Business Auto Liability insurance coverage with a minimum limit of \$1,000,000.00 per occurrence, combined single limit for bodily injury liability and property damage liability, to include owned vehicles, hired and non-owned vehicles, and employee non-ownership.

The TOWN shall be included as an additional named insured on the commercial general liability and business auto liability insurance policies. The CONTRACTOR shall furnish TOWN a Certificate of Insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the TOWN verifying the existence of any insurance coverage required by the TOWN. The Certificate will provide for sixty (60) days advance notice in the event of termination or cancellation of coverage.

## **6. HEALTH AND SAFETY**

The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the SERVICES. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees from the SERVICES and other persons who may be affected thereby.

## **7. NON-DISCRIMINATION IN EMPLOYMENT**

The CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, sex, race, creed, or national origin. In the event the CONTRACTOR is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this CONTRACT may be canceled, terminated or suspended in whole or in part by the TOWN, and the CONTRACTOR may be declared ineligible for further TOWN contracts.

## **8. GOVERNING LAW**

This CONTRACT shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this CONTRACT shall be brought in the General Court of Justice of the State of North Carolina or in the Federal District Court for the Eastern District of North Carolina.

## **9. OTHER PROVISIONS**

This CONTRACT is subject to such additional provisions as are set forth in any addendum executed separately by each party and attached hereto.

## **10. CONTRACT DOCUMENTS/AMENDMENTS**

This document constitutes the entire agreement between the said two parties and may only be modified by a written mutual agreement signed by the parties and attached hereto.

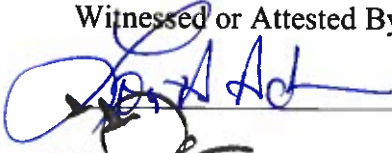

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Initials: CTC AD

## 11. SIGNATURES

Both the TOWN and the CONTRACTOR agree to the above CONTRACT.

Witnessed or Attested By:

TOWN OF DUCK:

By: 

Title: Town Manager

Date: 10/2/2019

Witnessed or Attested By:



CONTRACTOR:

SANDSKI, L.L.C.

By: 

Title: MANAGER / OWNER

Date: 10/2/2019

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

  
Finance Director

Initials: \_\_\_\_\_

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #7B:**

Old Business/Items Deferred from Previous Meetings

B. Discussion/Consideration of Ordinance 23-16, Establishing an Ordinance Defining and Regulating Businesses and Registration

**RECOMMENDED ACTION:**

- Review the Proposed Town Code Text Amendment(s)
- Adopt Ordinance 23-16 establishing Section 111 of the Duck Town Ordinance; an ordinance defining and regulating businesses and registration.

**SUMMARY OF INFORMATION:**

Ordinance 23-16 has been developed to establish a means to permit and register commercial beach equipment vendors under new Chapter 111. Business Registration.

As this ordinance does not involve amendments to any development standards under the purview of the Planning Board, the Council may adopt this ordinance as presented.

If the Council elects to adopt Ordinance 22-16, staff recommends a revision to the Town of Duck Fee Schedule to establish the business registration fee for beach equipment vendors.

**ATTACHMENTS:**

- Staff report
- Draft Ordinance 23-16



Town of Duck, North Carolina  
**Department of Community Development**

*Agenda Item 7b & 7c*

**TO:** Mayor Kingston and Members of the Duck Town Council  
**FROM:** Sandy Cross, Senior Planner, CAMA LPO/CZO/CFM  
Joe Heard, AICP, Director of Community Development  
**DATE:** December 29, 2023  
**RE:** Ordinance 23-16 Establishing an Ordinance Defining and Regulating Business License Registration  
Amendment to the Town of Duck Fee Schedule

**Background Information**

The Town Council recently adopted a revision to Chapter 94 Beach and Dune Management Regulations. These revisions led to a discussion regarding establishing a business license registration requirement and an associated amendment to the Town of Duck Fee Schedule. Based on the discussion that occurred at the December Town Council meeting, draft ordinance 23-16 Establishing an Ordinance Defining and Regulating Business License Registration was amended by Town Attorney Robert Hobbs and is attached for Council's consideration.

**Ordinance 23-16 Notable Changes:**

1. Removal of Section 111.07 relating to exemptions for Town employees, contractors or those made exempt as authorized by the Town Manager.
2. Addition of a requirement for proof of general liability insurance.
3. Addition of a requirement for proof of Workers Compensation insurance.

As a reminder, this ordinance would apply only to beach equipment vendors presently, however the ordinance has been crafted to allow for additional types of businesses in the future, if needed. This ordinance was drafted and reviewed with the assistance of Town Attorney Robert Hobbs to ensure compliance with the 2014 changes to the NC General Statute.

If Council chooses to adopt Ordinance 23-16, staff recommends an amendment to the Town of Duck Fee Schedule to include a Beach Equipment Vendor Registration Fee. Based on the discussion at the September 2023 Mid-month meeting, staff recommended a fee between \$1,000 and \$2,000 annually. After receiving some public input from vendors and Council input at the December 2023 meeting, staff researched several other jurisdiction's licensing requirements and found locally that a very nominal annual business registration fee is required in Kill Devil Hills (\$25.00) and Nags Head (\$100.00). In areas north and south of North Carolina, we see a much different approach to beach vendors on the beach. Several allow for a competitive bid process, while one (the City of Destin) requires a vendor permit per location. Staff still believe that a fee up to \$1,000 would be appropriate but defers to Council regarding the appropriate fee. Attached are comments from two (2) of the vendors suggesting that a deposit or bond be applied rather than



Town of Duck, North Carolina  
**Department of Community Development**

*Agenda Item 7b & 7c*

or with a nominal registration fee. Violations or infractions of our ordinance would be deducted from the deposit/bond, with any remaining balance returned at the end of the season.

**Section X Administrative and Miscellaneous Charges:**

Option 1

- 10) Business registration fee: \$500 to \$1,000 non-refundable annual fee

Option 2

- 10) Business registration fee: \$500 non-refundable annual fee plus a \$500 deposit/bond for infractions with balance refunded annually

Option 3

- 10) Business registration fee: <\$500 non-refundable annual fee plus a \$X deposit/bond for infractions with balance refunded annually

Option 4

- 10) Other suggestions

Council members are asked to consider adoption of Ordinance 23-16 and an amendment to the Town of Duck Fee Schedule.

Enforcement management of Chapter 94 was discussed at the September and December meetings. As two departments are currently working together to develop a staff position request as part of the annual budget process, staff would like to defer this discussion until budget discussions have been completed.

**ATTACHMENTS**

- A. Draft Ordinance 23-16
- B. Redline Ordinance 23-16
- C. Public input from local vendors
- D. Other municipal management of beach vendor registration/fees

**AN ORDINANCE DEFINING AND REGULATING BUSINESS LICENSE AND  
REGISTRATION IN THE TOWN OF DUCK**

Ordinance No. 23-16

WHEREAS, pursuant to N.C Gen. Stat. §160A-174 a town may by ordinance define, prohibit, regulate or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and

WHEREAS, pursuant to N.C. Gen. Stat. §160A-194 a town may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience, and in licensing trades, occupations, and professions, a town may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee for the same.

NOW, THEREFORE, BE IT ORDAINED BY the Town Council for the Town of Duck, North Carolina as follows:

**PART I.** The following new Chapter 111 shall be added to the Code of Ordinances:

**CHAPTER 111: BUSINESS LICENSE AND REGISTRATION**

- 111.01 Definitions
- 111.02 Construction
- 111.03 Applicability of chapter provisions
- 111.04 Levy of business license fee
- 111.05 Period of license; due date; annual license
- 111.06 Refunds
- 111.07 Application for business license
- 111.08 Reasons for refusal or revocation of license
- 111.09 Unqualified applicants; right to conference
- 111.10 Town Clerk to issue license; payment of fee a prerequisite
- 111.11 Revocation; conference
- 111.12 Record of conferences
- 111.13 Form and contents of license
- 111.14 Assignments
- 111.15 Changes in business conducted by licensee during year
- 111.16 Town Clerk to furnish duplicates
- 111.17 Providing notice to applicant or licensee
- 111.18 Responsibility of business owner to determine whether fee due
- 111.19 Town Clerk to investigate
- 111.20 Displaying license
- 111.21 Notice of violation
- 111.22 Request for conference

- 111.23 Violation to become final if conference not requested
- 111.24 Procedures when conference held
- 111.25 Remedies

§ 111.01 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**APPLICABLE BUSINESS.** Each business within the town to which this chapter is applicable.

**BUSINESS.** Each trade, occupation, profession, business and franchise on which a business license fee is imposed under this chapter. The North Carolina General Assembly has authorized the town to impose a business license and fee on businesses. "Person" as used in this chapter means any individual, company, corporation, firm or other entity.

**BUSINESS WITHIN THE TOWN.** A person maintains a business location in the town, or if, either personally or through agents, the person solicits or transacts business within the town; or picks up or delivers goods, or delivers services within the town.

**CONDUCTS BUSINESS.** A person, firm, corporation or other entity engages in one act of any business within the town as defined in this chapter.

§ 111.02 CONSTRUCTION.

This chapter is enacted for revenue and regulatory purposes. Therefore, it should be construed to require payment of the maximum fee permitted under its terms. In addition, issuance of a business license pursuant to this chapter does not excuse a licensee from compliance with any other applicable ordinance or statute. This chapter does not prevent the town from imposing license fees on additional businesses, from increasing or decreasing the amount of any license fee, or from regulating any business paying such license fee.

§ 111.03 APPLICABILITY OF CHAPTER PROVISIONS.

Each person who conducts any of the following businesses within the town is subject to this chapter, except as expressly exempted herein:

- (A) Beach equipment vendors.

§ 111.04 LEVY OF BUSINESS LICENSE FEE.

An annual business license fee as listed in the Town of Duck Fee Schedule is hereby levied on all applicable businesses conducted within the town. Those businesses subject to an annual privilege fee imposed by the State of North Carolina or otherwise exempted from local privilege license fees by State law are exempt from the town's business license fee.



§ 111.05 PERIOD OF LICENSE; DUE DATE; ANNUAL LICENSE.

Unless the section of this chapter levying the business license fee applicable to a particular business provides otherwise, a business license issued pursuant to this chapter is good for the 12-month period beginning April 1 and ending March 31. The business license fee is due on March 15 of each year. However, if a person begins a business after April 1 of a year, the business license fee for that year is due before the business operation has begun.

§ 111.06 REFUNDS.

If for any reason a person discontinues their business during the year for which a business license fee is imposed, the person is not entitled to a refund of any fees paid.

§ 111.07 APPLICATION FOR BUSINESS LICENSE.

A person who conducts an applicable business in the town shall register the business with the town before beginning the conducting of the business. A business shall be registered by submitting a form provided by the Town Clerk which shall provide all of the following information:

(A) The name of the applicant and whether the applicant is an individual, a partnership, a corporation or some other entity.

(B) The nature of the business.

(C) Where the business is conducted.

(D) An address to which may be mailed notices and statements required by this chapter.

(E) For any corporation or other entity registered with the North Carolina Secretary of State, the name and address of their registered agent.

(F) A certificate of insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the Town, which confirms the existence of commercial general liability insurance coverage with a minimum limit of \$1,000,000.00 general aggregate, products/completed operations aggregate, personal and advertising injury and each occurrence including premises and operations, naming the applicant as the insured and the Town as an additional named insured on such policy. The certificate shall provide for sixty (60) days advance notice to the Town in the event of termination or cancellation of coverage. The applicant shall submit a certificate of insurance to the Town within ten days after the Town's issuance of the business license to the applicant.

(G) A certificate of insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the Town, which confirms the existence of worker's compensation insurance, valid in the state, in the minimum amount of the statutory limit for worker's compensation, naming the applicant as the insured and the Town as an additional insured on such policy. The certificate shall provide for sixty (60) days advance notice to the Town in the event of termination or cancellation of coverage. The applicant shall submit a certificate of insurance to the Town within ten (10) days after the Town's issuance of the business license to the applicant.

§ 111.08 REASONS FOR REFUSAL OR REVOCATION OF LICENSE.

The Town Clerk shall refuse to issue a business license or shall revoke a business license for any of the following reasons:

- (A) The applicant misrepresents a fact relevant to the applicant's qualifications for a license; or
- (B) The applicant refuses to provide information necessary to complete the application; or
- (C) The applicant violates provisions of the Town Code.

§ 111.09 UNQUALIFIED APPLICANTS; RIGHT TO CONFERENCE.

After receipt of the completed application, if the Town Clerk believes that a reason exists for refusing a license under § 111.08, the Town Clerk shall refuse to accept payment of the fee and shall not issue the license. At the applicant's request, the Town Clerk shall, pursuant to § 111.17, give the applicant a written statement of the reason for refusing the license. The applicant may, within ten days after the day the applicant receives this statement, request a conference to discuss the refusal. In the applicant's request, the applicant shall specify why the application for a license should not be refused. The Town Clerk shall arrange the conference within a reasonable time.

(B) If the Town Clerk refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists and if no other reason exists for refusing to issue a license, the Town Clerk shall issue the license pursuant to § 111.10.

§ 111.10 TOWN CLERK TO ISSUE LICENSE; PAYMENT OF FEE A PREREQUISITE.

After receipt of the completed application, if the Town Clerk believes that no reason exists for refusal of a license under § 111.08, the Town Clerk shall notify the applicant of the amount of the license fee as listed in the Town of Duck Fee Schedule.

§ 111.11 REVOCATION; CONFERENCE.

(A) The Town Clerk shall revoke a license if a reason exists to revoke it as set forth in § 111.08. Before the Town Clerk may revoke a license, the Town Clerk shall give the licensee written notice of the grounds for revocation, pursuant to § 111.17. The licensee may, within ten days after the day on which notice is provided, request in writing a conference with the Town Clerk. The request shall specify the reasons why the license should not be revoked. The Town Clerk shall arrange the conference within a reasonable time.

(B) If the licensee fails to request a conference within ten days after the day on which notice is provided, the Town Clerk shall revoke the license. If the licensee requests a conference, the Town Clerk may not make a decision on the proposed revocation until after the conference.

(C) If the Town Clerk revokes a license, the former licensee may apply for a new license at any time thereafter. If the reason for which the license was revoked no

longer exists and if no other reason exists for refusing to issue a license, the Town Clerk shall issue the license pursuant to § 111.10.

§ 111.12 RECORD OF CONFERENCES.

The Town Clerk shall maintain for three years a record of each conference held pursuant to this chapter. The record shall contain the applicant's or licensee's name, the date of the conference and a brief statement of the issues discussed and the result reached. After three years, the Town Clerk shall dispose of the record pursuant to N.C.G.S. § 121-5 or any applicable replacement provision.

§ 111.13 FORM AND CONTENTS OF LICENSE.

A business license issued pursuant to this chapter shall show:

- (A) The name of the person licensed;
- (B) The place where the business is conducted (if it is to be conducted at one place);
- (C) The nature of business licensed;
- (D) The period for which the license is issued; and
- (E) The amount of the license fee paid.

§ 111.14 ASSIGNMENTS.

- (A) A license issued pursuant to this chapter may be assigned if:
  - (1) A business licensed under this chapter and carried on at a fixed place is sold as a unit to any person; and
  - (2) The purchaser is to carry on the same business at the same place.
- (B) Such a change shall be reported to the Town Clerk within ten days. Otherwise, each license issued under this chapter is a personal privilege and is not assignable.

§ 111.15 CHANGES IN BUSINESS CONDUCTED BY LICENSEE DURING YEAR.

A person conducting an applicable business within the town shall report a change in their registration information to the Town Clerk within ten days after the change occurs. A licensee or his assignee shall report any change in the information contained in the license application within ten days after the change occurs. If information shown on a license issued under this chapter is affected thereby, the licensee or his assignee shall surrender the license to the Town Clerk when reporting the change.

(A) Changes affecting amount of fee due. If there are no reasons for revoking the license under § 111.08 and the change results in the imposition of a separate or additional fee, the Town Clerk shall reissue a license reflecting the change upon payment of the separate or additional fee.

(B) Changes not affecting amount of fee due. If there are no reasons for revoking the license under § 111.08 and the change does not result in an imposition of a separate or additional fee, the Town Clerk shall reissue a license reflecting the change at no charge.

(C) Change requiring refusal of license. If there is reason for revoking the license under § 111.08, the Town Clerk shall refuse to reissue a license and shall instead begin proceedings to revoke the license pursuant to § 111.11.

§ 111.16 TOWN CLERK TO FURNISH DUPLICATES.

Upon satisfactory proof that a license has been lost or destroyed, the Town Clerk shall furnish a duplicate for the fee as listed in the Town of Duck Fee Schedule.

§ 111.17 PROVIDING NOTICE TO APPLICANT OR LICENSEE.

Whenever this chapter requires the Town Clerk to give a written statement or notice to a business registered in the Town, or to an applicant or a licensee, the Town Clerk may do so in any one of three ways:

- (A) By personally delivering the statement or notice to the applicant or licensee;
- (B) By mailing the statement or notice to the address specified for that purpose in the license application by either (1) certified mail, return receipt requested, or (2) commercial overnight delivery service; or
- (C) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.

§ 111.18 RESPONSIBILITY OF BUSINESS OWNER TO DETERMINE WHETHER FEE DUE.

Each person has the duty to determine whether the business being conducted is required to hold a business license under this chapter, and if so, whether that fee has been paid for the current year.

§ 111.19 TOWN CLERK TO INVESTIGATE.

If the Town Clerk has reason to believe that a person is conducting an applicable business in the town in violation of this chapter, the Town Clerk shall conduct an investigation to determine whether the person is subject to the requirements of this chapter.

§ 111.20 DISPLAYING LICENSE.

A licensee shall post their business license conspicuously in the place of business licensed, in or on vehicles used for delivery. If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by town officials.

§ 111.21 NOTICE OF VIOLATION.

If the Town Clerk determines that a person operating an applicable business in the town has not applied for a business license and/or paid the license fee, either for the current license year or for a prior license year, the Town Clerk shall give the person written notice of violation, pursuant to § 111.17. The notice of violation shall specify the total amount of fee due, the section upon which the fee is based, the amount of fee due, and the manner and time period in which the person may respond to the notice of violation and the consequences to the person if the person fails to respond as specified.

§ 111.22 REQUEST FOR CONFERENCE.

The person may, within ten days after the day on which notice of violation under this chapter is served, request in writing a conference. The request shall specify the person's objections to the notice of violation. By way of illustration, but not limitation, a person who receives notice of violation may object on the grounds that the business license for the current year has been issued and/or the fee due has already been paid.

**§ 111.23 VIOLATION TO BECOME FINAL IF CONFERENCE NOT REQUESTED.**

If the person fails to request a conference under § 111.22, the violation becomes final and the Town Clerk shall pursue any or all available remedies.

**§ 111.24 PROCEDURES WHEN CONFERENCE HELD.**

If the person requests a conference, the Town Clerk shall not take action on the violation until the Town Clerk hears the person's objections and determines whether the violation should become final.

**§ 111.25 REMEDIES.**

(A) The Town Clerk may use any of the following methods to enforce any provision of this chapter:

- (1) License revocation as provided in § 111.11;
- (1) Impose a civil penalty as set forth in § 10.99 of the town code; and/or
- (2) In addition to the remedies set forth in this section and in compliance with G.S. § 160A-175(d), seek an injunction and/or other equitable remedies against any person who conducts an applicable business in violation of this chapter.

(B) Any business/privilege license invoice older than three years, regarding an applicable business that the town no longer regards as active, may be removed from the list of receivable accounts in the town's financial statement. At least annually, the Town Clerk will present the Town Manager with a list of uncollectible accounts, requesting the Town Manager's approval for a formal write-off of such accounts. The town may use all available means to collect these accounts to include but not be limited to the following: bank attachment and payroll garnishment where applicable, debt set-off, etc.

**PART II.** This ordinance shall be effective upon its adoption.

\_\_\_\_\_  
Don Kingston, Mayor

ATTEST:

\_\_\_\_\_  
Lori Ackerman, Town Clerk

Date adopted: \_\_\_\_\_

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

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS

DRAFT

**Comparison Showing Changes from Draft Presented at 12/6/2023 Council Meeting**

**AN ORDINANCE DEFINING AND REGULATING BUSINESS LICENSE AND  
REGISTRATION IN THE TOWN OF DUCK**

Ordinance No. 23-16

WHEREAS, pursuant to N.C Gen. Stat. §160A-174 a town may by ordinance define, prohibit, regulate or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and

WHEREAS, pursuant to N.C. Gen. Stat. §160A-194 a town may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience, and in licensing trades, occupations, and professions, a town may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee for the same.

NOW, THEREFORE, BE IT ORDAINED BY the Town Council for the Town of Duck, North Carolina as follows:

**PART I. The following new Chapter 111 shall be added to the Code of Ordinances:**

**CHAPTER 111: BUSINESS LICENSE AND REGISTRATION**

**Section**

111.01 Definitions

111.02 Construction

111.03 Applicability of chapter provisions

111.04 Levy of business license fee

111.05 Period of license; due date; annual license

111.06 Refunds

111.07 ~~Exemptions~~Application for business license

111.08 ~~Application for business license~~

~~111.09~~ Reasons for refusal or revocation of license

111.~~1009~~ Unqualified applicants; right to conference

111.~~1110~~ Town Clerk to issue license; payment of fee a prerequisite

111.~~1211~~ Revocation; conference

111.~~1312~~ Record of conferences

111.~~1413~~ Form and contents of license

111.14 Assignments

111.15 ~~Assignments~~

~~111.16~~ Changes in business conducted by licensee during year

111.~~1716~~ Town Clerk to furnish duplicates

111.~~1817~~ Providing notice to applicant or licensee

## Comparison Showing Changes from Draft Presented at 12/6/2023 Council Meeting

- 111.~~19~~18 Responsibility of business owner to determine whether fee due
- 111.~~20~~19 Town Clerk to investigate
- 111.~~21~~20 Displaying license
- 111.~~22~~21 Notice of violation
- 111.~~23~~22 Request for conference
- 111.~~24~~23 Violation to become final if conference not requested
- 111.~~25~~24 Procedures when conference held
- 111.~~26~~25 Remedies

### § 111.01 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**APPLICABLE BUSINESS.** Each business within the town to which this chapter is applicable.

**BUSINESS.** Each trade, occupation, profession, business and franchise on which a business license fee is imposed under this chapter. The North Carolina General Assembly has authorized the town to impose a business license and fee on businesses. "Person" as used in this chapter means any individual, company, corporation, firm or other entity.

**BUSINESS WITHIN THE TOWN.** A person maintains a business location in the town, or if, either personally or through agents, the person solicits or transacts business within the town; or picks up or delivers goods, or delivers services within the town.

**CONDUCTS BUSINESS.** A person, firm, corporation or other entity engages in one act of any business within the town as defined in this chapter.

### § 111.02 CONSTRUCTION.

This chapter is enacted for revenue and regulatory purposes. Therefore, it should be construed to require payment of the maximum fee permitted under its terms. In addition, issuance of a business license pursuant to this chapter does not excuse a licensee from compliance with any other applicable ordinance or statute. This chapter does not prevent the town from imposing license fees on additional businesses, from increasing or decreasing the amount of any license fee, or from regulating any business paying such license fee.

### § 111.03 APPLICABILITY OF CHAPTER PROVISIONS.

Each person who conducts any of the following businesses within the town is subject to this chapter, except as expressly exempted herein:

- (A) Beach equipment vendors.

### § 111.04 LEVY OF BUSINESS LICENSE FEE.



## Comparison Showing Changes from Draft Presented at 12/6/2023 Council Meeting

An annual business license fee as listed in the Town of Duck Fee Schedule is hereby levied on all applicable businesses conducted within the town. Those businesses subject to an annual privilege fee imposed by the State of North Carolina or otherwise exempted from local privilege license fees by State law are exempt from the town's business license fee.

### § 111.05 PERIOD OF LICENSE; DUE DATE; ANNUAL LICENSE.

Unless the section of this chapter levying the business license fee applicable to a particular business provides otherwise, a business license issued pursuant to this chapter is good for the 12-month period beginning April 1 and ending March 31. The business license fee is due on March 15 of each year. However, if a person begins a business after April 1 of a year, the business license fee for that year is due before the business operation has begun.

### § 111.06 REFUNDS.

If for any reason a person discontinues their business during the year for which a business license fee is imposed, the person is not entitled to a refund of any fees paid.

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### ~~§ 111.07—EXEMPTIONS.~~

~~The provisions of this chapter shall not apply to (1) employees of the Town of Duck, (2) businesses providing services under a contract with the Town, and (3) persons or businesses who are expressly made exempt as authorized by the Town Manager.~~

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### ~~§ 111.08~~ APPLICATION FOR BUSINESS LICENSE.

A person who conducts an applicable business in the town shall register the business with the town before beginning the conducting of the business. A business shall be registered by submitting a form provided by the Town Clerk which shall provide all of the following information:

(A) The name of the applicant and whether the applicant is an individual, a partnership, a corporation or some other entity<sub>;</sub>

(B) The nature of the business<sub>;</sub>

(C) Where the business is conducted<sub>;</sub>

(D) An address to which may be mailed notices and statements required by this chapter<sub>;</sub>

(E) For any corporation or other entity registered with the North Carolina Secretary of State, the name and address of their registered agent.

(F) A certificate of insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the Town, which confirms the existence of commercial general liability insurance coverage with a minimum limit of \$1,000,000.00 general aggregate, products/completed operations aggregate, personal and advertising injury and each occurrence including premises and

## Comparison Showing Changes from Draft Presented at 12/6/2023 Council Meeting

operations, naming the applicant as the insured and the Town as an additional named insured on such policy. The certificate shall provide for sixty (60) days advance notice to the Town in the event of termination or cancellation of coverage. The applicant shall submit a certificate of insurance to the Town within ten days after the Town's issuance of the business license to the applicant.

(G) A certificate of insurance from an insurance company, licensed to do business in the State of North Carolina and acceptable to the Town, which confirms the existence of worker's compensation insurance, valid in the state, in the minimum amount of the statutory limit for worker's compensation, naming the applicant as the insured and the Town as an additional insured on such policy. The certificate shall provide for sixty (60) days advance notice to the Town in the event of termination or cancellation of coverage. The applicant shall submit a certificate of insurance to the Town within ten (10) days after the Town's issuance of the business license to the applicant.

### § 111.~~0908~~ REASONS FOR REFUSAL OR REVOCATION OF LICENSE.

The Town Clerk shall refuse to issue a business license or shall revoke a business license for any of the following reasons:

(A) The applicant misrepresents a fact relevant to the applicant's qualifications for a license; or

(B) The applicant refuses to provide information necessary to complete the application; or

(C) The applicant violates provisions of the Town Code.

### § 111.~~1009~~ UNQUALIFIED APPLICANTS; RIGHT TO CONFERENCE.

After receipt of the completed application, if the Town Clerk believes that a reason exists for refusing a license under § 111.~~0908~~, the Town Clerk shall refuse to accept payment of the fee and shall not issue the license. At the applicant's request, the Town Clerk shall, pursuant to § 111.~~1817~~, give the applicant a written statement of the reason for refusing the license. The applicant may, within ten days after the day the applicant receives this statement, request a conference to discuss the refusal. In the applicant's request, the applicant shall specify why the application for a license should not be refused. The Town Clerk shall arrange the conference within a reasonable time.

(B) If the Town Clerk refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists and if no other reason exists for refusing to issue a license, the Town Clerk shall issue the license pursuant to § 111.~~1110~~.

### § 111.~~1110~~ TOWN CLERK TO ISSUE LICENSE; PAYMENT OF FEE A PREREQUISITE.

After receipt of the completed application, if the Town Clerk believes that no reason exists for refusal of a license under § 111.~~0908~~, the Town Clerk shall ~~determine the amount of fee due and~~ notify the applicant of ~~that~~the amount. ~~The~~

## Comparison Showing Changes from Draft Presented at 12/6/2023 Council Meeting

~~Town Clerk shall not issue a~~ of the license ~~until the fee is paid~~ fee as listed in the  
Town of Duck Fee Schedule.

### § 111.~~12~~11 REVOCATION; CONFERENCE.

(A) The Town Clerk shall revoke a license if a reason exists to revoke it as set forth in § 111.~~09~~08. Before the Town Clerk may revoke a license, the Town Clerk shall give the licensee written notice of the grounds for revocation, pursuant to § 111.~~18~~17. The licensee may, within ten days after the day on which notice is provided, request in writing a conference with the Town Clerk. The request shall specify the reasons why the license should not be revoked. The Town Clerk shall arrange the conference within a reasonable time.

(B) If the licensee fails to request a conference within ten days after the day on which notice is provided, the Town Clerk shall revoke the license. If the licensee requests a conference, the Town Clerk may not ~~revoke the license~~ make a decision on the proposed revocation until after the conference.

(C) If the Town Clerk revokes a license, the former licensee may apply for a new license at any time thereafter. If the reason for which the license was revoked no longer exists and if no other reason exists for refusing to issue a license, the Town Clerk shall issue the license pursuant to § 111.~~11~~10.

### § 111.~~13~~12 RECORD OF CONFERENCES.

The Town Clerk shall maintain for three years a record of each conference held pursuant to this chapter. The record shall contain the applicant's or licensee's name, the date of the conference and a brief statement of the issues discussed and the result reached. After three years, the Town Clerk shall dispose of the record pursuant to N.C.G.S. § 121-5 or any applicable replacement provision.

### § 111.~~14~~13 FORM AND CONTENTS OF LICENSE.

A business license issued pursuant to this chapter shall show:

- (A) The name of the person licensed;
- (B) The place where the business is conducted (if it is to be conducted at one place);
- (C) The nature of business licensed;
- (D) The period for which the license is issued; and
- (E) The amount of the license fee paid.

### § 111.~~15~~14 ASSIGNMENTS.

(A) A license issued pursuant to this chapter may be assigned if:

- (1) A business licensed under this chapter and carried on at a fixed place is sold as a unit to any person; and
- (2) The purchaser is to carry on the same business at the same place.

(B) Such a change shall be reported to the Town Clerk within ten days. Otherwise, each license issued under this chapter is a personal privilege and is not assignable.

### § 111.~~16~~15 CHANGES IN BUSINESS CONDUCTED BY LICENSEE DURING YEAR.

## Comparison Showing Changes from Draft Presented at 12/6/2023 Council Meeting

A person conducting an applicable business within the town shall report a change in their registration information to the Town Clerk within ten days after the change occurs. A licensee or his assignee shall report any change in the information contained in the license application within ten days after the change occurs. If information shown on a license issued under this chapter is affected thereby, the licensee or his assignee shall surrender the license to the Town Clerk when reporting the change.

(A) Changes affecting amount of fee due. If there are no reasons for revoking the license under § 111.~~0908~~ and the change results in the imposition of a separate or additional fee, the Town Clerk shall reissue a license reflecting the change upon payment of the separate or additional fee.

(B) Changes not affecting amount of fee due. If there are no reasons for revoking the license under § 111.~~0908~~ and the change does not result in an imposition of a separate or additional fee, the Town Clerk shall reissue a license reflecting the change at no charge.

(C) Change requiring refusal of license. If there is reason for revoking the license under § 111.~~0908~~, the Town Clerk shall refuse to reissue a license and shall instead begin proceedings to revoke the license pursuant to § 111.~~1211~~.

### § 111.~~1716~~ TOWN CLERK TO FURNISH DUPLICATES.

Upon satisfactory proof that a license has been lost or destroyed, the Town Clerk shall furnish a duplicate for the fee as listed in the Town of Duck Fee Schedule.

### § 111.~~1817~~ PROVIDING NOTICE TO APPLICANT OR LICENSEE.

Whenever this chapter requires the Town Clerk to give a written statement or notice to a business registered in the Town, or to an applicant or a licensee, the Town Clerk may do so in any one of three ways:

(A) By personally delivering the statement or notice to the applicant or licensee;

(B) By mailing the statement or notice to the address specified for that purpose in the license application by either (1) certified mail, return receipt requested, or (2) commercial overnight delivery service; or

(C) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.

### § 111.~~1918~~ RESPONSIBILITY OF BUSINESS OWNER TO DETERMINE WHETHER FEE DUE.

Each person has the duty to determine whether the business being conducted is required to hold a business license under this chapter, and if so, whether that fee has been paid for the current year.

### § 111.~~2019~~ TOWN CLERK TO INVESTIGATE.

If the Town Clerk has reason to believe that a person is conducting an applicable business in the town in violation of this chapter, the Town Clerk shall conduct an investigation to determine whether the person is subject to the requirements of this chapter.

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### § 111.~~21~~20 DISPLAYING LICENSE.

A licensee shall post their business license conspicuously in the place of business licensed, in or on vehicles used for delivery. If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by town officials.

### § 111.~~22~~21 NOTICE OF VIOLATION.

If the Town Clerk determines that a person operating an applicable business in the town has not applied for a business license and/or paid the license fee, either for the current license year or for a prior license year, the Town Clerk shall give the person written notice of violation, pursuant to § 111.~~18~~17. The notice of violation shall specify the total amount of fee due, the section upon which the fee is based, the amount of fee due, and the manner and time period in which the person may respond to the notice of violation and the consequences to the person if the person fails to respond as specified.

### § 111.~~23~~22 REQUEST FOR CONFERENCE.

The person may, within ten days after the day on which notice of violation under this chapter is served, request in writing a conference. The request shall specify the person's objections to the notice of violation. By way of illustration, but not limitation, a person who receives notice of violation may object on the grounds that the business license for the current year has been issued and/or the fee due has already been paid.

### § 111.~~24~~23 VIOLATION TO BECOME FINAL IF CONFERENCE NOT REQUESTED.

If the person fails to request a conference under § 111.~~23~~22, the violation becomes final and the Town Clerk shall pursue any or all available remedies.

### § 111.~~25~~24 PROCEDURES WHEN CONFERENCE HELD.

If the person requests a conference, the Town Clerk shall not ~~proceed to~~ finalizetake action on the violation until the Town Clerk hears the person's objections and determines ~~that~~whether the violation should become final. ~~The Town Clerk shall maintain for three years a record of each conference held pursuant to § 111.24. The record shall contain the name of the person, the date of the conference, and a brief statement of the issues discussed and the results of the discussion. After three years, the Town Clerk shall dispose of the record pursuant to N.C.G.S. § 121-5 or any applicable replacement provision.~~

### § 111.~~26~~25 REMEDIES.

(A) The Town Clerk may use any of the following methods to ~~collect a deficiency or delinquent fees~~enforce any provision of this chapter:

— (1) A License revocation as provided in § 111.11;

— (1) Impose a civil penalty as set forth in § 10.99 of the town code; and/or

(2) Equitable remedies. In addition to the remedies set forth in this section and in compliance with G.S. § 160A-175(d), ~~the town may~~ seek an injunction and/or

**Comparison Showing Changes from Draft Presented at 12/6/2023 Council Meeting**

other equitable remedies against any person who conducts an applicable business in violation of this chapter.

(B) Any business/privilege license invoice older than three years, regarding an applicable business that the town no longer regards as active, may be removed from the list of receivable accounts in the town's financial statement. At least annually, the Town Clerk will present the Town Manager with a list of uncollectible accounts, requesting the Town Manager's approval for a formal write-off of such accounts. The town may use all available means to collect these accounts to include but not be limited to the following: bank attachment and payroll garnishment where applicable, debt set-off, etc.

**PART II.** This ordinance shall be effective upon its adoption.

\_\_\_\_\_  
Don Kingston, Mayor

ATTEST:

\_\_\_\_\_  
Lori Ackerman, Town Clerk

Date adopted: \_\_\_\_\_

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

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

## Sandy Cross

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**From:** info farmdogsurfschool.com <info@farmdogsurfschool.com>  
**Sent:** Friday, December 15, 2023 11:26 AM  
**To:** Steve Pauls; Don Kingston; Monica Thibodeau; Sandy Whitman; Rob Mooney; Tony Schiano; TownCouncilEmailList  
**Cc:** Sandy Cross  
**Subject:** Re: Chapter 94 Beach and Dune Management in Duck and Beach Equipment Vendors Business Registration

Dear Council Members,

On behalf of the team at Farmdog Beach Services, I wanted to express our thanks for how deftly you all navigated the complex and nuanced issue of beach equipment placement by locals, services and visitors. Sandy Cross worked very hard to compile a significant amount of information, and we were very impressed with how the Council and Sandy were able to cut through the noise and the competing interests to develop an ordinance that should be both enforceable and fair to all parties.

As the meeting was coming to a close, there were still some outstanding issues to be resolved, and we would like to share our perspective on a few of them. The first bit was about the cost of the license. Farmdog Beach Services is committed to 100% compliance with all ordinances at the municipal and county levels, which is why we suggested a \$2000 bond rather than a \$2000 fee. We would be betting on ourselves that we would recover the bond in its entirety. However, since the discussion seemed to be leading to a lesser fee, we would certainly support a fee that was less.

Another topic that was considered by Council was indemnifying the Town. Farmdog Beach Services supports indemnifying the Town. Any entity that we do business with, be it the NPS, non-profits or rental management companies, requires proof of insurance and worker's comp in order to do business. We think insurance and WC requirements are absolutely necessary in order to issue a business registration in the Town.

Additionally, I wanted to mention that the 6:30 am start time will be very helpful for commercial operators, there is no question about it. However, we have decided to cap the number of setups in Duck to the same number we had when the start time was 8 am. We still see the beach in Duck, particularly south of the Pier, as a very limited resource and we don't want to create a more difficult situation for ourselves or any other beach goer. Having an earlier start time just means, to us, that we can be off the beach and out of the way before it gets really hot.

In closing, thank you all for allowing our input in the process of crafting the ordinance. We are available any time you ask via email or phone. I can be reached on my mobile at 252-267-7575.

Thank you and Happy Holidays,  
Robert Farmer

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**From:** Steve Pauls <stovepoles@yahoo.com>  
**Sent:** Tuesday, December 5, 2023 11:54 AM  
**To:** don.kingston@townofduck.com <don.kingston@townofduck.com>; monica.thibodeau@townofduck.com

<monica.thibodeau@townofduck.com>; sandy.whitman@townofduck.com <sandy.whitman@townofduck.com>;  
rob.mooney@townofduck.com <rob.mooney@townofduck.com>; tony.schiano@townofduck.com  
<tony.schiano@townofduck.com>

**Cc:** SCross@townofduck.com <SCross@townofduck.com>

**Subject:** Re: Chapter 94 Beach and Dune Management in Duck and Beach Equipment Vendors Business Registration

Dear Town of Duck Commissioners,

Thank you for including us in the process of developing the proposed updates to the Town of Duck Code regarding beach equipment and Beach Equipment Vendors Registration. We appreciate the hard work Sandy Cross and the planning staff has put in to develop a proposal that considers input from many stakeholders.

As you are likely aware, Farmdog Beach Services is one of the leading Beach Services Companies in the OBX, we operate in all of the municipalities in the Northern Outer Banks, and our management team has over 55 years of combined local business ownership experience here. We are deeply invested in the community and pride ourselves in striving towards 100% compliance of all ordinances. As such, we are keen to see rules and regulations that effect how we do business be fair and practical.

To that end, we have several suggestions to amend the current proposal.

Regarding the proposed Beach Equipment Vendor Fee of \$2,000: We feel this is a huge sum, and in our opinion, excessive. Our suggestion is instead of a Fee, charge a deposit. If a registered vendor has a violation, a fine can be charged and deducted from the deposit. This incentivizes vendors to follow the regulations. Those who do follow the rules can choose to have their deposit refunded to them at the end of the season or rolled into the following year.

Regarding the hours equipment can be on the beach: We feel the 8am start time is too late in the morning for several reasons. It is often blazing hot by 9am in the morning. Beach cabana and umbrella setups are extremely physically taxing work, and heat exhaustion starts to become a possibility as the day heats up. Also, many of the locations that commercial vendors service have limited parking, and those spaces are often completely full by 9-10am. Additionally, we forecast that keeping private cabanas and umbrellas off the beach before 8am is going to be difficult to enforce and likely cause negative experiences for Duck guests. Vacationers start putting out chairs and setups to stake their claim on the beach often at dawn. Who is going to tell them that they cannot do that? It is worth noting that the town of Nags Head recently moved their start time from 7am to 6am. Our feeling and experience is that 6am is a practical, enforceable, reasonable time to allow private and commercial beach equipment on the beach.

We appreciate your consideration of our suggestions, and look forward to hearing your additional thoughts and suggestions at the town meeting on Wednesday.

As always, we are available any time to discuss how we can be better partners with the Town of Duck in providing excellent service to guests and residents alike. Feel free to call any time.



Sincerely,

Steve Pauls  
Farmdog Beach Services  
252-441-5512

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This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

**Caution:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender.

Town of Duck meeting Dec. 6th, 2023

**My sincere apologies that we cannot attend; Our Ocean Atlantic Rentals, Inc. Christmas party is this evening. Thank you for understanding this conflict, and for sharing this with all commissioners & attendants.**

Ocean Atlantic Rentals Inc. was established in 1979, and has had a brick and mortar business location in Duck since 1984. From our location at 1194 Duck Rd. we rent beach & cottage equipment, deliver gear, and offer a setup/takedown chair and umbrella service on the beach. All reservations are paid for over the phone, in the store, or online -never on the beach.

### **Concerning the proposed changes:**

#### **Attachment A: An ordinance amending the town code of Duck**

*Chapter: 94: Beach and Dune Management*

*Part I:*

*(B) "The following activities shall be considered unlawful on the beach, as defined in § 94.04:"*

- (1) Will homeowners, visitors, and tourists (setting up their own items) be held to the same guidelines as vendors when it comes to:  
leaving equipment on the beach unattended before 8AM, the use of guy-lines to secure their umbrellas, and equipment placement?  
How will the town handle selective enforcement?
- (2) We appreciate the ordinance for evening equipment removal being moved from 5PM to 6:30PM. We suggest equipment set up starting at 6AM, as any tourist has the opportunity to do.

In other towns, we begin setups at 6AM. By 8AM, the heat and beach traffic has peaked, which is unsafe for our staff and our guests. For the sake of safety, the town of Nags Head has worked with us expanding the allotted beach day to 6AM-7PM.

Because of the current set up ordinances, Ocean Atlantic Rentals, and most other local set up companies, are limited to only servicing oceanfront Duck homes. Even then, we are unable to set up in front of their vacation property because the territory has been claimed earlier in the morning by others. Our wish is to not compete with, or disrupt, tourists who do not hire the service, but to provide a service that is safe with the same rights as every other beach goer.

All of this being said, beach nourishment would truly remedy any sort of time ordinance and ease the tension not only between vendors and tourists, but all Duck beach goers. We are fortunate to be a part of this strong tourist economy, but the lack of sand and space is the root problem.

*(F) "Exemptions. The provisions of this chapter shall not apply to (1) employees of the Town of Duck, (2) businesses providing services under a contract with the Town, and (3) persons or businesses who are expressly made exempt as authorized by the Town Manager."*

I understand exemptions for a town event or surf contest, but does this include Ocean Rescue / Duck Lifeguards? While Ocean Rescue has always been a crucial asset to our community and are clearly qualified life saving professionals, Ocean Rescue rents chairs and umbrellas at Barrier Island Station, making them a competing vendor. Using a competing business to enforce Duck town code is obviously a conflict of interest. We suggest an unbiased rule enforcement being established.

As it stands, Duck Lifeguards are allowed to perform beach setup services while using their lifeguard trucks and ATV's to execute the services and setup outside of the town's allotted time frame. Because they are in the position to govern themselves and their competitors, they should be held to the same commercially supportive restrictions: pay a \$2,000 fee, and comply with the town code.

**Is it a liability for the town to have lifeguards renting gear, rather than saving lives?**

[https://www.myhorrynews.com/news/local/horry\\_county/horry-county-plans-to-eliminate-dual-role-lifeguards/article\\_5d7f3690-33df-11ed-9dd5-b3632136d3c8.html](https://www.myhorrynews.com/news/local/horry_county/horry-county-plans-to-eliminate-dual-role-lifeguards/article_5d7f3690-33df-11ed-9dd5-b3632136d3c8.html)

**Attachment C: Schedule of Rate and Fees**

*Section X Administrative and Miscellaneous Charges:*

**10. Beach Equipment Vender Annual Registration Fee \$2,000.00**

Paying a registration fee to the Town of Duck is reasonable. This proposed fee is 4x the amount of the second highest fee that Duck collects. Nags Head has nearly twice the amount of shoreline and charges a \$100 annual fee to do business within their town. A \$200 fee, coupled with a \$800 bond is a great idea; The \$800 can be used towards any infractions by a vendor.

What is the fine for a non-registered business or individual caught "setting up" beach gear in the town limits? Again, who will be enforcing this? With our paid registration fee, are we able to recover our equipment if it is confiscated?

This service originated for visitors who needed assistance, whether it be the elderly or those with mobility issues. We have no intention to monopolize the beach, we are simply providing a service that is adamantly requested and provided on every beach and national seashore. This service is very popular and in need of some ordinances, but these are unrealistic with the current state of Duck's beaches.

Thank you for allowing us to be part of the discussion and the solution.

Sincerely,

Chris Marik -General Manager

Jessica Bonnacci - Duck Manager

### Folly Beach, SC

All non-franchise commercial activity on the beach must be approved by the city council and requires the business to pay an annual fee of \$500.00. This includes yoga lessons, surfing lessons and paddleboard lessons. All franchise commercial activity must be approved by the city council and requires a yearly franchise fee (business owners bid on this but must be a minimum of \$5,000.00) plus pay a 4% fee on gross revenue annually. They both must also obtain and pay for a business license annually.

All franchise/non-franchise applicants must apply via application and if awarded must sign a franchise agreement laying out the scope of the franchise, business license and fees, signage requirements, and must sign that they understand all complaint procedures/revocation/appeal processes and that the franchisee may not sell, transfer, or assign its franchise. They must also provide the city with a 60-day notice of termination.

### City Of Destin, FL

Currently, an agreement with the subject property owner is required prior to any rental operation. Additionally, there shall be no beach vending operations on City beaches.

#### 329504 Beach Management Vendor Permits

The Land Development Code provides that City Council will establish and collect fees for the issuance of Beach Vendor Permits. NOTE: 10% of all fees collected within this section shall be accounted for and deposited in a separate account designated to support development review/compliance quality process improvement initiatives.

Code Reference: LDC 11.08.03

Responsible Department: Code Compliance Department

Wheeled Vehicle Permit, per vehicle	\$50
Beach Vendor Permit, per location	\$150
Late Fee, per location	\$25

### Tybee Island

Emailed [gshaw@cityoftybee.org](mailto:gshaw@cityoftybee.org) 12/18/2023

left a chat message 12/27/2023

I/m for Sharon Shaver at 912-472-5072 12/27/2023

emailed [sshaver@cityoftybee.org](mailto:sshaver@cityoftybee.org) 12/28

## Bethany Beach, DE

John Morton, 302-539-5484

### Code Enforcement

#### Overview

Code Enforcement is responsible for monitoring and acting upon any municipal ordinance infraction including, but not limited to:

- Building
- Housing
- Sanitation
- Zoning
- Public health

#### Contact

John Morton,  
Code Enforcement

214 Garfield Pkwy  
PO Box 109  
Bethany Beach, DE  
19930

Ph: (302) 539-5484  
Fx: (302) 539-7064

#### Hours

8:00 am - 4:00 pm  
Monday - Friday

Received email. They have a competitive bid process awarded to one contractor. \$80k paid by vendor in 2021. They will be bidding out again in 2024.

## Ocean City, MD

Brian Huntington, 410-289-8898, [bhunting@oceancitymd.gov](mailto:bhunting@oceancitymd.gov)

Ocean City, MD has a competitive bid process and they split the town into 3 sections geographically and have 10 auctions. The areas are auctioned off and the winning bids enter into a contract with the town. No one company can acquire more than a certain 50% of the areas up for bid. The most recent bid came in at \$82,000 for one year at the inlet (southernmost part) with a 3 year contract? That contract may be renewed for another 3 years with a 10% increase. Areas must be re-bid after 6 years. Prior bid at the inlet was \$50k so the market adjusted. Contracted vendors may keep boxes on the beach with their equipment but are limited in the number of setups allowed to provide for private individuals. Vendors may also transact on the beach.

Finance department manages contracts and requires a management plan, tax records and background check.

## Viginia Beach, VA

Emailed 12/18/2023

SEAFO 757-385-4800 l/m 12/27, l/m 12/28 with Zach x3

They have a bidding process. Waiting on details.

**Dauphin Island, Alabama**

Emailed [jmclester@townofdauphinisland.org](mailto:jmclester@townofdauphinisland.org)

**Nags Head, NC**

\$100 annual permit fee

**Kill Devil Hills, NC**

KDH requires a business registration (\$25.00) annually, which applies to beach equipment vendors. This is handled by the Finance Department and the Planning Department was unsure how many of them do not get one. They have had a lot of complaints about these vendors from the public and Ocean Rescue, per Planning Department.

**City of Wilmington**

No ocean beaches

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #7C:**

Old Business/Items Deferred from Previous Meetings

C. Discussion/Consideration of an Amendment to the Town of Duck Fee Schedule

**RECOMMENDED ACTION:**

- Review the proposed amended fee schedule

**SUMMARY OF INFORMATION:**

Staff is recommending a revision to the Town of Duck Fee Schedule to establish the business registration fee for beach equipment vendors.

**ATTACHMENTS:**

- Staff report





Town of Duck, North Carolina  
Department of Community Development

*Agenda Item 7b & 7c*

**TO:** Mayor Kingston and Members of the Duck Town Council  
**FROM:** Sandy Cross, Senior Planner, CAMA LPO/CZO/CFM  
Joe Heard, AICP, Director of Community Development  
**DATE:** December 29, 2023  
**RE:** Ordinance 23-16 Establishing an Ordinance Defining and Regulating Business License Registration  
Amendment to the Town of Duck Fee Schedule

**Background Information**

The Town Council recently adopted a revision to Chapter 94 Beach and Dune Management Regulations. These revisions led to a discussion regarding establishing a business license registration requirement and an associated amendment to the Town of Duck Fee Schedule. Based on the discussion that occurred at the December Town Council meeting, draft ordinance 23-16 Establishing an Ordinance Defining and Regulating Business License Registration was amended by Town Attorney Robert Hobbs and is attached for Council's consideration.

**Ordinance 23-16 Notable Changes:**

1. Removal of Section 111.07 relating to exemptions for Town employees, contractors or those made exempt as authorized by the Town Manager.
2. Addition of a requirement for proof of general liability insurance.
3. Addition of a requirement for proof of Workers Compensation insurance.

As a reminder, this ordinance would apply only to beach equipment vendors presently, however the ordinance has been crafted to allow for additional types of businesses in the future, if needed. This ordinance was drafted and reviewed with the assistance of Town Attorney Robert Hobbs to ensure compliance with the 2014 changes to the NC General Statute.

If Council chooses to adopt Ordinance 23-16, staff recommends an amendment to the Town of Duck Fee Schedule to include a Beach Equipment Vendor Registration Fee. Based on the discussion at the September 2023 Mid-month meeting, staff recommended a fee between \$1,000 and \$2,000 annually. After receiving some public input from vendors and Council input at the December 2023 meeting, staff researched several other jurisdiction's licensing requirements and found locally that a very nominal annual business registration fee is required in Kill Devil Hills (\$25.00) and Nags Head (\$100.00). In areas north and south of North Carolina, we see a much different approach to beach vendors on the beach. Several allow for a competitive bid process, while one (the City of Destin) requires a vendor permit per location. Staff still believe that a fee up to \$1,000 would be appropriate but defers to Council regarding the appropriate fee. Attached are comments from two (2) of the vendors suggesting that a deposit or bond be applied rather than



Town of Duck, North Carolina  
**Department of Community Development**

*Agenda Item 7b & 7c*

or with a nominal registration fee. Violations or infractions of our ordinance would be deducted from the deposit/bond, with any remaining balance returned at the end of the season.

**Section X Administrative and Miscellaneous Charges:**

Option 1

- 10) Business registration fee: \$500 to \$1,000 non-refundable annual fee

Option 2

- 10) Business registration fee: \$500 non-refundable annual fee plus a \$500 deposit/bond for infractions with balance refunded annually

Option 3

- 10) Business registration fee: <\$500 non-refundable annual fee plus a \$X deposit/bond for infractions with balance refunded annually

Option 4

- 10) Other suggestions

Council members are asked to consider adoption of Ordinance 23-16 and an amendment to the Town of Duck Fee Schedule.

Enforcement management of Chapter 94 was discussed at the September and December meetings. As two departments are currently working together to develop a staff position request as part of the annual budget process, staff would like to defer this discussion until budget discussions have been completed.

**ATTACHMENTS**

- A. Draft Ordinance 23-16
- B. Redline Ordinance 23-16
- C. Public input from local vendors
- D. Other municipal management of beach vendor registration/fees

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #8:**

New Business

- A. Discussion/Consideration of Appointing an Individual to Serve on the Planning Board
- B. Discussion/Consideration of Appointing an Individual to Serve on the Board of Adjustment

**RECOMMENDED ACTION:**

- See Attachments

**SUMMARY OF INFORMATION:**

- See Attachments

**ATTACHMENTS:**

- See Attachments

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #8A:**

New Business

- A.        Discussion/Consideration of Appointing an Individual to Serve on the Planning Board

**RECOMMENDED ACTION:**

- Appoint an Individual to Serve the Unexpired Term of Brenda Chasen on the Planning Board for a Term to End on May 1, 2026.

**SUMMARY OF INFORMATION:**

With a new Town Council being seated on December 6, 2023, an individual needs to be appointed to the Planning Board to serve the unexpired term of Brenda Chasen.

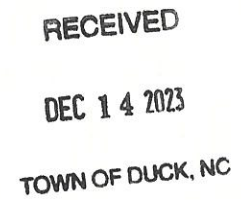
Staff put out an advertisement for the position and the following applications were received for the Planning Board position:

Ronald Forlano  
Miriam Rollin  
Bob Webb  
Thomas Burton

All four individuals will be present at the Council meeting to introduce themselves and answer any questions Council may have.

**ATTACHMENTS:**

- Ronald Forlano Application
- Miriam Rollin Application
- Bob Webb Application
- Thomas Burton Application



Current Employer Retired.

**Title/Position** \_\_\_\_\_ **Years in Current Position** \_\_\_\_\_

**Brief Description of Duties:**

Other Employment History 2 Years Navy Dentist; 30 Years Private Practice (Dentist); 30 year NC Realstate Broker, 37 Years Restaurant Owner, 30 years Realstate (Developer + Owner)

Interests/Skills/Areas of Expertise Knowledge of Business & Area  
Real Estate,

**Current Professional Organizations/Civic and/or Activities**

None currently

### Past Professional Organizations/Civic and/or Activities

Member of Duck original Board of Land Use Plan and 1st board to hire Town Manager + Head of 1st Planning Board. Plus 16 years of Planning Board Experience.

**Is there any possible conflict of interest or other matter that would create problems or prevent you from fairly and impartially discharging your duties as an appointee of the Town Council?**

No.

**Yes (If yes, please attach an explanation of the possible conflict)**

I certify that the facts contained in this application are true and correct to the best of my knowledge and belief. I understand that this application will be retained in the Office of the Town Clerk for two (2) years and must be updated after that time. If not updated as requested by the Town Manager, the application will be removed from the active consideration file. I understand if I am to be considered for a position that I will be required to attend a Council meeting to give an introduction to Town Council. I further understand that upon submitting this application to the Town of Duck, this application and all information on it is considered a public record under North Carolina law.

**Signature**

**Date****RETURN COMPLETED FORM TO:**

**Office of the Town Clerk  
Town of Duck  
Post Office Box 8369  
Duck, NC 27949**





## APPLICATION FOR BOARDS, COMMITTEES, AND COMMISSIONS TOWN OF DUCK

FOR OFFICE USE ONLY		
<b>Date Received</b>	<b>Time</b>	<b>Contacted by:</b>
<b>Appointed To</b>	<b>Date Appointed</b>	<b>Application Updated:</b>

*Please Complete **Each** Section (Print or Type)*

**Name** Miriam Ann Rollin

**Home Address** 149 Plover Drive, Duck, NC 27949

**Mailing Address** 149 Plover Drive, #8197, Duck, NC 27949

**Business Address** N/A

**Home Phone** 703-408-6002

**Business Phone** N/A

**Email** marollin@icloud.com

**Boards/Committees/Commissions I am most interested in:**

- ☒ **Planning Board**
- ☐ **Zoning Board of Adjustment**
- ☐ **Wall Décor and Artwork Committee**
- ☐ **Other (please list)** \_\_\_\_\_

**Education (Including Years of School Completed):**

BA 1982 Yale University (Economics & Political Science)

JD 1987 Catholic University of America, Columbus School of Law

**Current Employer** N/A (retired)

**Title/Position** N/A (retired) **Years in Current Position** N/A (retired)

**Brief Description of Duties:**

N/A (retired)  
\_\_\_\_\_  
\_\_\_\_\_

**Other Employment History** Through my over 40 year career advancing the needs of vulnerable children and families through policy improvements and litigation, I had the privilege and pleasure of collaborating effectively with a wide variety of people, including federal/state elected officials, coalition allies and org members.

**Interests/Skills/Areas of Expertise** Achieving success in my career required: good listening skills; creative problem-solving; clear, concise and impactful written and oral communications; extensive research and analysis; and the ability to quickly digest large quantities of information, and understand complex info.

**Current Professional Organizations/Civic and/or Activities**

I have become an active member of the Duck community, including speaking at several Town Council Meetings, recently speaking at a Planning Board meeting, and leading an effort to restrict Beach driving (incl. a 700-signature petition). I have also been active in Duck on issues of stormwater management, emergency medical services, speed limits, and most recently placement of cell towers in Duck. I'm also an active NEST volunteer, and OBX Chorus member.

**Past Professional Organizations/Civic and/or Activities**

I have served on national boards, have been a member of state and national bar associations, and have led national coalitions to advance the interests of vulnerable children, youth and families.

**Comments** I understand how boards and commissions work, I am a quick study on new topics, and I am excited about serving on the Town of Duck Planning Board, to help in the work of keeping Duck the splendid place that we all know and love!

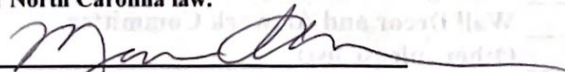
**Is there any possible conflict of interest or other matter that would create problems or prevent you from fairly and impartially discharging your duties as an appointee of the Town Council?**

No ☒ XXX

Yes (If yes, please attach an explanation of the possible conflict)

I certify that the facts contained in this application are true and correct to the best of my knowledge and belief. I understand that this application will be retained in the Office of the Town Clerk for two (2) years and must be updated after that time. If not updated as requested by the Town Manager, the application will be removed from the active consideration file. I understand if I am to be considered for a position that I will be required to attend a Council meeting to give an introduction to Town Council. I further understand that upon submitting this application to the Town of Duck, this application and all information on it is considered a public record under North Carolina law.

Signature



Date

12/21/23

RETURN COMPLETED FORM TO:

Office of the Town Clerk  
Town of Duck  
Post Office Box 8369  
Duck, NC 27949





# **APPLICATION FOR BOARDS, COMMITTEES, AND COMMISSIONS TOWN OF DUCK**

FOR OFFICE USE ONLY		
Date Received	Time	Contacted by:
Appointed To	Date Appointed	Application Updated:

*Please Complete Each Section (Print or Type)*

**Name** Bob Webb

**Home Address** 1166 Duck Road, Duck NC, 27949

**Mailing Address** Same as Home Address

**Business Address** Ingram Entertainment, Two Ingram Blvd, LaVergne, TN, 37089

**Home Phone** 615-804-4045 **Business Phone** 615-287-4045

**Email** Bobwwb@Comcast.net

**Boards/Committees/Commissions I am most interested in:**

- ☒ **Planning Board**
- ☒ **Zoning Board of Adjustment**
- ☐ **Wall Décor and Artwork Committee**
- ☐ **Other (please list)** \_\_\_\_\_

**Education (Including Years of School Completed):**

BA, State University of New York at Geneseo

MBA, Vanderbilt University

**Current Employer** Ingram Entertainment

**Title/Position** Vice Chairman **Years in Current Position** 2 (Total of 36 yrs at Ingram)

**Brief Description of Duties:**

Advisor to Owner/CEO and assist in business strategy for senior management. During my career at Ingram, I have worked on building projects, including new buildings and expansions/renovations. These projects involved my interaction with municipal governments and boards to get projects approved and to adhere to building codes.

**Other Employment History**

Employed 36 years at Ingram. My responsibilities have ranged from Product Manager, VP of Purchasing, EVP of Operations, President & CEO. Prior employer was Record Bar in Durham, NC as Product Mgr and GM.

**Interests/Skills/Areas of Expertise** Music, Sports & Hiking

Very analytical, good problem solver, strong people manager.

**Current Professional Organizations/Civic and/or Activities**

Four Seasons in Duck HOA board member, Chairman of Four Seasons Architectural Committee (willing to resign from both positions if the Town of Duck views these as a conflict to my participation on a town board).  
Ingram Entertainment Board Director

**Past Professional Organizations/Civic and/or Activities**

DBI Beverage Board Director (15 years), Belcourt Theater Board member (6 years)

**Comments**

Is there any possible conflict of interest or other matter that would create problems or prevent you from fairly and impartially discharging your duties as an appointee of the Town Council?

No

Yes (If yes, please attach an explanation of the possible conflict)

I certify that the facts contained in this application are true and correct to the best of my knowledge and belief. I understand that this application will be retained in the Office of the Town Clerk for two (2) years and must be updated after that time. If not updated as requested by the Town Manager, the application will be removed from the active consideration file. I understand if I am to be considered for a position that I will be required to attend a Council meeting to give an introduction to Town Council. I further understand that upon submitting this application to the Town of Duck, this application and all information on it is considered a public record under North Carolina law.

Signature



Date

12/22/23

RETURN COMPLETED FORM TO:

Office of the Town Clerk  
Town of Duck  
Post Office Box 8369  
Duck, NC 27949



# **APPLICATION FOR BOARDS, COMMITTEES, AND COMMISSIONS TOWN OF DUCK**

FOR OFFICE USE ONLY		
Date Received <b>DEC 27 REC'D / 2023</b>	Time <b>9:30 AM</b>	Contacted by:
Appointed To	Date Appointed	Application Updated:

*Please Complete Each Section (Print or Type)*

Name THOMAS (TOM) BURTON

Home Address P.O. Box 8122, 109 SANDPIPER COVE, DUCK, NC 27949

Mailing Address P.O. Box 8122, DUCK, NC 27949

Business Address NA

Cell 804-339-0257 Home Phone NA Business Phone NA

Email THOMAS.B.BURTON@GMAIL.COM

**Boards/Committees/Commissions I am most interested in:**

- ☒ Planning Board
- ☐ Zoning Board of Adjustment
- ☐ Wall Décor and Artwork Committee
- ☐ Other (please list) \_\_\_\_\_

**Education (Including Years of School Completed):**

MBA - VIRGINIA COMMONWEALTH UNIVERSITY (1982)  
BS/FINANCE VIRGINIA TECH (1981)

Current Employer RETIRED SINCE 2010

Title/Position \_\_\_\_\_ Years in Current Position \_\_\_\_\_

Brief Description of Duties:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other Employment History TATTERSALL ADVISORY GROUP 1989-2010  
FIXED INCOME (BONDS) MONEY MANAGEMENT FIRM FOR  
INSTITUTIONAL ACCOUNTS (ENDOWMENTS, FOUNDATIONS, CORP PENSIONS, etc)

Interests/Skills/Areas of Expertise FINANCE/ECONOMICS

\_\_\_\_\_  
\_\_\_\_\_

Current Professional Organizations/Civic and/or Activities

DUCK VOLUNTEER FOR TRASH and DUNE GRASS PLANTINGS.

\_\_\_\_\_  
\_\_\_\_\_

Past Professional Organizations/Civic and/or Activities

CHARTERED FINANCIAL ANALYST (CFA) #25173 1991. COROLLA  
WILD HORSE FUND 2022-2023

Comments \_\_\_\_\_

Is there any possible conflict of interest or other matter that would create problems or prevent you from fairly and impartially discharging your duties as an appointee of the Town Council?

No

Yes (If yes, please attach an explanation of the possible conflict)

I certify that the facts contained in this application are true and correct to the best of my knowledge and belief. I understand that this application will be retained in the Office of the Town Clerk for two (2) years and must be updated after that time. If not updated as requested by the Town Manager, the application will be removed from the active consideration file. I understand if I am to be considered for a position that I will be required to attend a Council meeting to give an introduction to Town Council. I further understand that upon submitting this application to the Town of Duck, this application and all information on it is considered a public record under North Carolina law.

Signature Thomas B. Burton

Date 12/26/2023

RETURN COMPLETED FORM TO:

Office of the Town Clerk /Laurie ACKERMAN  
Town of Duck  
Post Office Box 8369  
Duck, NC 27949

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #8B:**

New Business

B. Discussion/Consideration of Appointing an Individual to Serve on the Board of Adjustment

**RECOMMENDED ACTION:**

- Appoint an Individual to Serve the Unexpired Term of Kevin Lingard on the Board of Adjustment for a Term to End on July 1, 2025.

**SUMMARY OF INFORMATION:**

With a new Town Council being seated on December 6, 2023, an individual needs to be appointed to the Board of Adjustment to serve the unexpired term of Kevin Lingard.

Staff put out an advertisement for the position and one application was received for the Board of Adjustment position:

Bob Webb

Mr. Webb will be present at the Council meeting to introduce himself and answer any questions Council may have.

**ATTACHMENTS:**

- Bob Webb Application



## APPLICATION FOR BOARDS, COMMITTEES, AND COMMISSIONS TOWN OF DUCK

FOR OFFICE USE ONLY		
Date Received	Time	Contacted by:
Appointed To	Date Appointed	Application Updated:

*Please Complete Each Section (Print or Type)*

**Name** Bob Webb

**Home Address** 1166 Duck Road, Duck NC, 27949

**Mailing Address** Same as Home Address

**Business Address** Ingram Entertainment, Two Ingram Blvd, LaVergne, TN, 37089

**Home Phone** 615-804-4045 **Business Phone** 615-287-4045

**Email** Bobwwweb@Comcast.net

**Boards/Committees/Commissions I am most interested in:**

- ☒ **Planning Board**
- ☒ **Zoning Board of Adjustment**
- ☐ **Wall Décor and Artwork Committee**
- ☐ **Other (please list)** \_\_\_\_\_

**Education (Including Years of School Completed):**

BA, State University of New York at Geneseo

MBA, Vanderbilt University

**Current Employer** Ingram Entertainment

**Title/Position** Vice Chairman **Years in Current Position** 2 (Total of 36 yrs at Ingram)

**Brief Description of Duties:**

Advisor to Owner/CEO and assist in business strategy for senior management. During my career at Ingram, I have worked on building projects, including new buildings and expansions/renovations. These projects involved my interaction with municipal governments and boards to get projects approved and to adhere to building codes.

**Other Employment History**

Employed 36 years at Ingram. My responsibilities have ranged from Product Manager, VP of Purchasing, EVP of Operations, President & CEO. Prior employer was Record Bar in Durham, NC as Product Mgr and GM.

**Interests/Skills/Areas of Expertise** Music, Sports & Hiking

Very analytical, good problem solver, strong people manager.

**Current Professional Organizations/Civic and/or Activities**

Four Seasons in Duck HOA board member, Chairman of Four Seasons Architectural Committee (willing to resign from both positions if the Town of Duck views these as a conflict to my participation on a town board).  
Ingram Entertainment Board Director

**Past Professional Organizations/Civic and/or Activities**

DBI Beverage Board Director (15 years), Belcourt Theater Board member (6 years)

**Comments**

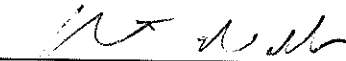
Is there any possible conflict of interest or other matter that would create problems or prevent you from fairly and impartially discharging your duties as an appointee of the Town Council?

No

Yes (If yes, please attach an explanation of the possible conflict)

I certify that the facts contained in this application are true and correct to the best of my knowledge and belief. I understand that this application will be retained in the Office of the Town Clerk for two (2) years and must be updated after that time. If not updated as requested by the Town Manager, the application will be removed from the active consideration file. I understand if I am to be considered for a position that I will be required to attend a Council meeting to give an introduction to Town Council. I further understand that upon submitting this application to the Town of Duck, this application and all information on it is considered a public record under North Carolina law.

Signature



Date

12/22/23

RETURN COMPLETED FORM TO:

Office of the Town Clerk  
Town of Duck  
Post Office Box 8369  
Duck, NC 27949

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #9:**

Items Referred to and Presentations from the Town Attorney

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None



**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #10:**

Items Referred to and Presentations from the Town Manager

- A.     Departmental Updates
- B.     November FY 2024 Financial Presentation

**RECOMMENDED ACTION:**

- See attachments

**SUMMARY OF INFORMATION:**

- See attachments

**ATTACHMENTS:**

- See attachments

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #10A:**

Items Referred to and Presentations from the Town Manager

- A.     Departmental Updates

**RECOMMENDED ACTION:**

- None required.

**SUMMARY OF INFORMATION:**

The Town Council will receive an update on departmental activities.

**ATTACHMENTS:**

- None

**AGENDA:            January 3, 2024                            Regular Meeting**

**ITEM #10B:**

Items Referred to and Presentations from the Town Manager

B. November FY 2024 Financial Presentation

**RECOMMENDED ACTION:**

- None required

**SUMMARY OF INFORMATION:**

A financial summary will be available at the Town Council meeting.

**ATTACHMENTS:**

- None

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #11:**

Mayor's Agenda

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #12:**

Council Members' Agenda

**RECOMMENDED ACTION:**

- None

**SUMMARY OF INFORMATION:**

- None

**ATTACHMENTS:**

- None

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #13:**

Other Business

A. Additional Public Comments

**RECOMMENDED ACTION:**

- None required

**SUMMARY OF INFORMATION:**

- Council will take additional comments from the public.

**ATTACHMENTS:**

- None

**AGENDA:        January 3, 2024**

**Regular Meeting**

**ITEM #14:**

Adjournment

**RECOMMENDED ACTION:**

- Per discussion

**SUMMARY OF INFORMATION:**

The next scheduled meeting will be the Mid-Month Meeting on Wednesday, January 17, 2024 at 1:00 p.m.

**ATTACHMENTS:**

- None