

TOWN OF CALABASH, NORTH CAROLINA

CODE OF ORDINANCES

2001 S-3 Supplement contains:

Local legislation current through Ordinance passed 4-10-01

State legislation current through A.L.S. Pamphlet #3, 2000

AMERICAN LEGAL PUBLISHING CORPORATION

432 Walnut Street Cincinnati, Ohio 45202-3909 (513) 421-4248

COPYRIGHT © 2001

AMERICAN LEGAL PUBLISHING CORPORATION

ORDINANCE

ENACTING AS AN ORDINANCE, A CODE OF ORDINANCES FOR THE TOWN OF CALABASH REVISING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE TOWN DEALING WITH SUBJECTS EMBRACED IN SAID CODE.

WHEREAS, the present general ordinances of the Town of Calabash are incomplete and inadequate and the manner of arrangement, classification and indexing thereof is insufficient to meet the immediate needs of the Town; and

WHEREAS, the Acts of the State Legislature of the State of North Carolina empower and authorize the Board of Commissioners of the Town of Calabash to revise, amend, restate, codify and to compile any existing ordinance or ordinances and all new ordinances not heretofore adopted or published and to incorporate said ordinances into one ordinance in book form; and

WHEREAS, the Board of Commissioners of the Town of Calabash has authorized a general compilation, revision and codification of the ordinances of the Town of a general and permanent nature and publication of such ordinances in book form.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Calabash that:

Section 1. The general ordinances of Town of Calabash as herein revised, amended, restated, codified, and compiled in book form are adopted as and shall constitute the "Code of ordinances of the Town of Calabash".

Section 2. Said Code as adopted in section 1 shall consist of the following titles, to-wit:

Title I General Provisions
Title III Administration
Title V Public Works
Title VII Traffic Code
Title IX General Regulations
Title XI Business Regulations
Title XIII General Offenses
Title XV Land Usage
Tables of Special Ordinances
Parallel References
Index

Calabash - Adopting Ordinance

Section 3. All prior ordinances pertaining to the subjects treated in said Code shall be deemed repealed from and after the effective date of said Code except as they are included and reordained in whole or in part in said Code; provided such repeal shall no affect any offense committed or penalty incurred or any right established prior to the effective date of said Code, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching establishing franchises or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, naming or vacating or setting the boundaries of streets, alleys or other public places, nor to any other ordinances of a temporary or special nature or pertaining to subjects not contained therein.

Section 4. Said Code shall be deemed published as of the day of its adoption and approval by the Board of Commissioners and the Clerk of the Town of Calabash is hereby authorized and ordered to file a copy of said Code in the Office of the Town Clerk.

Section 5. Said Code shall be in full force and effect no weeks from the date of its publication and filing thereof in the Office of the Clerk, and said Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded and approved and that any public hearings and notices thereof as required by law have been given.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Calabash this 12th day of July, 1994.

ATTEST:

Jon B. Sanborn /s/
Mayor Pro-tem

Janet Stevens /s/
Town Clerk

**CALABASH, NORTH CAROLINA
CHARTER AND RELATED LAWS**

CHARTER

Section

1. Town incorporated
2. Boundaries
3. Board of Commissioners
4. Mayor
5. Elections
6. Vacancies
7. Taxes
8. Effective date

**CHAPTER 391
SENATE BILL 173**

**AN ACT TO INCORPORATE THE TOWN OF
CALABASH IN BRUNSWICK COUNTY, NORTH
CAROLINA.**

The General Assembly of North Carolina enacts:

Sec. 1. [TOWN INCORPORATED.]

The inhabitants in the area hereinafter described are hereby constituted a body politic and corporate under the name of the "Town of Calabash," and are hereby vested with all the powers, rights, privileges, immunities, and authority granted municipalities by the Constitution and general laws of the State.
(Sess. Laws 1973, Ch. 391, § 1)

Sec. 2. [BOUNDARIES.]

The corporate boundaries of the Town of Calabash shall be:

"Begins at a concrete monument (No. 2847) which is the Southeast corner of the R. B. Bennett "Seafood Kitchen" lct; runs thence with the Bennett lot and property of others, North 87° - 20' West 694.6 feet to Concrete Monument No. 2575; thence North 3° East (crossing Highway No. 1163) 604 feet to

Concrete Monument No. 2344; thence South 87° East 429.2 feet to concrete Monument No. 2327; thence North 30° - 15' West (with the line of property owned by Mrs. Lella Mae Simmons) 265 feet, more or less, to a point in a line lying 500 feet from the Northern edge of the 60 feet wide right-of-way of Highway No. 1163 (as measured perpendicular); thence with said line, in an Easterly direction 529 feet, more or less to the line of the William Carter estate lands; thence with said line, South 30° - 15' East 265 feet, more or less, to a pipe at the Northwest corner of a lot owned by Ronald Scheid; thence with his line and the line of the William Carter estate, North 87° -08' East 210.1 feet to a pipe; thence with the Royland Thomas and William Carter estate line, North 86° - 55' East 222.4 feet to a pipe at the corner of the Thomas Cemetery; thence across the end of a road North 3° - 55' West 30 feet; thence with a 30 ft. road and Wm. Carter estate lands, North 86° - 05' East 308 feet to a corner thence south 3° - 55' East 160 feet to the Kathleen Moore corner; thence with her line and the Wm. Carter line, south 7° - 50' East 160.6 feet to the Northern edge of the Highway 1165; thence with Highway 1165, North 40° - 48' East 710 feet, more or less, to the junction of Highway 1167; thence with Highway 1167, North 27° - 42' West 525 feet, more or less, to a corner; thence with a line 500 feet North of Highway 1165 (as measured perpendicular) North 40° - 48' East 1,200 feet, more or less, to a corner; thence South 22° - 07' East a line that follows the entrance road from Hwy. 1163 to the Wilson Cemetery and continues to a point in the center of the run of the Calabash River a distance of 3,500 feet; thence down the run of the main channel of the said river 4,250 feet, more or less, to the property line between Carolina Caribbean Corporation and Mrs. Lella Mae Simmons, extended to the approximate center of the main channel of the Calabash River; thence with said line, North 12° - 00'

West, 2,800 feet, more or less, to Concrete Monument No. 2847, the beginning."

(Sess. Laws 1973, Ch. 391, § 2)

Editor's note: See Chapter 593, House Bill 323 in "Related Laws," which annexed Carolina Shores Village to the town.

Sec. 3. [BOARD OF COMMISSIONERS.]

The initial Board of Commissioners shall consist of five members as herein appointed, who shall serve until the regular municipal election in November 1975, and until their successors are elected and qualified. The following named persons are hereby appointed as the initial Board of Commissioners for the Town of Calabash: J. E. Bryan, Bobby Sommersett, Royland Thomas, Vester Beck, Tommy Lewis.

(Sess. Laws 1973, Ch. 391, § 3)

Editor's note: See Chapter 593, House Bill 323 in "Related Laws," which increased the number of Commissioners from five to seven.

Sec. 4. [MAYOR.]

Ronald R. Scheid is hereby appointed as the initial Mayor for the Town of Calabash and shall serve until the regular municipal election to be held in November, 1975.

(Sess. Laws 1973, Ch. 391, § 4)

Sec. 5. [ELECTIONS.]

A regular municipal election shall be held on Tuesday, after the first Monday in November, 1987. At said election, the three candidates for council [i.e., the Board of Commissioners] receiving the least number of votes shall initially serve a two-year term, the next election for those three council seats will be Tuesday, after the first Monday in November 1991; thereafter, those persons elected to the same three council seats shall serve four-year terms with election thereof or being every four years; the two candidates for council receiving the largest number of votes and the person elected mayor at the 1989 election shall serve four-year terms, their next election being in November, 1993, and each four years thereafter.

(Sess. Laws 1973, Ch. 391, § 5) (Am. Ord. passed 9-28-87)

Sec. 6. [VACANCIES.]

Vacancies occurring for any reason in the office of Mayor or Board of Commissioners shall be filled by appointment by the remaining members of the Board of Commissioners for the unexpired term.

(Sess. Laws 1973, Ch. 391, § 6)

Sec. 7. [TAXES.]

If the effective date of this act falls between January 1 and June 30, the municipality shall, for the purpose of levying taxes for the fiscal year beginning July 1, obtain from the County [i.e., Brunswick County] a record of property in the area which was listed for taxes as of January 1, and the businesses in the area shall be liable for privilege license tax from the effective date of the privilege license tax ordinance.

(Sess. Laws 1973, Ch. 391, § 7)

Sec. 8. [EFFECTIVE DATE.]

This act is effective on ratification.

(Sess. Laws 1973, Ch. 391, § 8)

In the General Assembly read three times and ratified, this the 9th day of May, 1973.

James B. Hunt, Jr. /s/

James B. Hunt, Jr.

President of the Senate

James Ramsey /s/

James E. Ramsey

Speaker of the House of Representatives

RELATED LAWS

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION RATIFIED BILL

CHAPTER 593
HOUSE BILL 323

AN ACT TO CONSOLIDATE A CERTAIN AREA [i.e.,
Carolina Shores Village] INTO THE TOWN OF
CALABASH, SUBJECT TO A REFERENDUM, AND
CONCERNING HEIGHT LIMITATIONS IN THE TOWN
OF HOLDEN BEACH.

The General Assembly of North Carolina enacts:

Sec. 1. [AREA OF ANNEXATION TO TOWN].

The following described area is annexed to the
Town of Calabash:

TRACT A

BEGINNING at a point said point being located in the northern right-of-way line of N.C. 179 (formerly S.R. 1163) a 60' RW and also being located where the northern right-of-way line of N.C. 179 is intersected by the eastern right-of-way line of S.R. 1168 (60' RW). Thence running with and along the northern right-of-way line of N.C. 179, South 77 degrees 13 minutes 47 seconds West, 331.67 feet; thence with a curve to the right (values Delta 20 degrees 33 minutes 39 seconds, R = 1732.95') South 87 degrees 30 minutes 37 seconds West, a chord of 618.54 feet; Thence north 82 degrees 12 minutes 34 seconds West, 1022.14 feet; thence with a curve to the left (values Delta 13 degrees 28 minutes 52 seconds, R = 1667.02['']) North 88 degrees 44 minutes 26 seconds west, a chord of 391.32 feet. Thence South 84 degrees 18 minutes 34 seconds west, 21.93 feet to the South Carolina State Line. Thence running with the N.C. and S.C. State line North 44 degrees 43 minutes 03 seconds West 2088.59 feet; thence leaving state line and running north 25 degrees 56 minutes 40 seconds East 655.02 feet; thence North 64

degrees 13 minutes 18 seconds West, 103.78 feet to a point in the eastern right-of-way line of U.S. 17; thence running with eastern line of U.S. 17 North 25 degrees 57 minutes 42 seconds, 4027.30 feet to an iron pipe. (This line crossing S.R. 1168). Thence North 60 degrees 20 minutes 57 seconds East, 108.09 feet; Thence South 30 degrees 37 minutes 22 seconds East, 357.29 feet; thence North 60 degrees 22 minutes 31 seconds East, 1191.43 feet; thence North 30 degrees 50 minutes 31 seconds West, 365.67 feet; thence North 60 degrees 12 minutes 51 seconds East, 1349.56 feet to an iron pipe; thence South 87 degrees 47 minutes 50 seconds West, 463.98 feet; thence the following courses and distances. North 11 degrees 31 minutes 38 seconds West 1134.70 feet[;]
North 27 degrees 00 minutes 33 seconds East, 98.85 feet[;]
North 18 degrees 04 minutes 38 seconds West, 84.06 feet[;]
North 41 degrees 02 minutes 22 seconds East, 45.85 feet[;]
North 07 degrees 50 minutes 01 seconds East, 53.86 feet[;]
North 37 degrees 32 minutes 34 seconds East, 95.88 feet[;]
North 45 degrees 49 minutes 04 seconds East, 49.35 feet[;]
North 25 degrees 53 minutes 27 seconds East, 40.45 feet[;]
North 00 degrees 07 minutes 41 seconds West, 70.30 feet[;]
North 63 degrees 40 minutes 41 seconds East, 90.02 feet[;]
North 36 degrees 26 minutes 44 seconds East, 105.05 feet to the western right-of-way line of S.R. 1167, 60' RW; thence North 54 degrees 45 minutes 07 seconds East 30.00 feet to the centerline of S.R. 1167; thence running with centerline of S.R. 1167 South 35 degrees 14 minutes 53 seconds East, 1335.78 feet; thence with a curve to the right (values Delta 17 degrees 08 minutes 42 seconds, R = 954.93 feet) South 26 decrees 40 minutes

32 seconds East, a chord of 284.68 feet; thence continuing with said centerline and running South 18 degrees 06 minutes 12 seconds East, 1374.96 feet; thence leaving said centerline and running South 62 degrees 58 minutes 47 seconds West, 678.48 feet. Thence South 60 degrees 09 minutes 04 seconds West, 720.74 feet; thence South 30 degrees 33 minutes 19 seconds East, 2954.21 feet; thence South 60 degrees 36 minutes 40 seconds West, 452.61 feet; thence South 30 degrees 14 minutes 30 seconds East, 1506.91 feet to an iron pipe; thence North 87 degrees 00 minutes 46 seconds west, 779.48 feet to an iron pipe; thence South 82 degrees 04 minutes 15 seconds west, 439.56 feet to an iron pipe; Thence South 85 degrees 32 minutes 33 seconds West, 250.00 feet to an iron pipe; thence South 85 degrees 32 minutes 33 seconds West, 762.30 feet to the Eastern right-of-way line of S.R. 1168 (60' RW) thence with said right-of-way line South 03 degrees 49 minutes 14 seconds East 323.50 feet to the beginning point. Said Tract A containing 613 acres more or less.

TRACT B

ACREAGE ESTATES LAND

BEGINNING at an iron pipe in the Eastern right-of-way line of S.R. 1167 (Persimmon Road). Said beginning iron also being the Southwestern corner of Section C, Acreage Estates as recorded in Map Book 15, Page 54, Brunswick County Register of Deeds Office in Bolivia, North Carolina. Thence running South 78 degrees 12 minutes 01 seconds West 30.01 feet to the centerline of S.R. 1167; thence with the centerline of S.R. 1167, North 13 degrees 22 minutes 05 seconds West, 795.55 feet; thence north 19 degrees 33 minutes 16 seconds west, 240.35 feet, thence continuing with centerline of S.R. 1167 north 30 degrees 30 minutes 28 seconds west, 1584 feet thence leaving the centerline of S.R. 1167 and running North 49 degrees 50 minutes 55 seconds East, 88.89 feet; thence running these various courses and distances with and along Little Singletree Swamp:

North 12 degrees 01 minutes 46 seconds East, 310.06 feet[;]

North 07 degrees 53 minutes 49 seconds East, 217.53 feet;

North 06 degrees 44 minutes 59 seconds West, 111.09 feet;

North 21 degrees 06 minutes 56 seconds East, 139.44 feet;

North 76 degrees 19 minutes 57 seconds East, 143.24 feet;

North 53 degrees 37 minutes 54 seconds East, 253.73 feet;

North 12 degrees 53 minutes 37 seconds West, 246.25 feet;

North 05 degrees 58 minutes 10 seconds East, 128.21 feet;

North 47 degrees 11 minutes 43 seconds East, 349.98 feet;

North 42 degrees 21 minutes 42 seconds East, 144.68 feet;

North 13 degrees 02 minutes 50 seconds East, 390.02 feet;

North 29 degrees 45 minutes 27 seconds West, 171.04 feet;

North 33 degrees 45 minutes 43 seconds East, 231.37 feet;

North 15 degrees 00 minutes 04 seconds East, 162.79 feet;

to an iron pipe. Thence running South 26 degrees 07 minutes 00 seconds East, 617.12 feet to an iron pipe, thence South 25 degrees 27 minutes 50 minutes East, 1659.80 feet to an iron pipe; thence South 25 degrees 34 minutes 50 seconds East, 1627.72 feet to an iron pipe; thence South 25 degrees 34 minutes 45 seconds East, 1105.79 feet to an iron pipe; thence South 25 degrees 42 minutes 45 seconds East, 1598.56 feet to an iron pipe; thence South 25 degrees 36 minutes 55 seconds East, 2522.36 feet to the centerline of S.R. 1165; thence running with centerline of S.R. 1165, South 42 degrees 44 minutes 55 seconds West, 942.04 feet, thence leaving centerline of S.R. 1165 and running North 25 degrees 16 minutes 15 seconds west, 530.72 feet to an iron pipe; thence North 25 degrees 51 minutes 15 seconds West, 1527.06 feet to an iron pipe; thence North 26 degrees 27 minutes 19 seconds West, 332.57 feet to an iron pipe; thence North 26 degrees 44 minutes 14 seconds West, 163.86 feet to an iron pipe; thence North 26 degrees 54 minutes 19 seconds West, 541.04 feet to an iron pipe; thence North 26 degrees 01 minutes 19 seconds West, 234.02 feet to an iron pipe; thence North 26 degrees 32 minutes 19 seconds West, 1362.51 feet to a concrete monument;

thence South 78 degrees 15 minutes 31 seconds West, 423.64 feet to a concrete monument; thence South 78 degrees 12 minutes 01 seconds West, 774.52 feet to the beginning iron. Said Tract B containing 264 acres more or less.

(Sess. Laws 1989, Ch. 593, § 1)

Sec. 2. [ELECTION DISTRICTS.]

(a) The existing corporate limits of the Town of Calabash is District # 1. The area described in Section 1 of this act is District #2.

(b) Candidates for the Board of Commissioners shall reside in and represent the districts according to the apportionment plan provided by subsection (c) of this section, but all members shall be elected by all the qualified voters of the Town of Calabash.

(c) Two seats are apportioned to District # 1, and five seats are apportioned to District #2.

(d) In 1989, two members shall be elected for District #1. The person receiving the highest number of votes is elected to a four-year term, and the person receiving the next highest number of votes is elected to a two-year term. In 1991 and quadrennially thereafter, one person is elected to a four-year term. In 1993 and quadrennially thereafter, one person is elected to a four-year term.

(d1) In 1989, five persons shall be elected for District #2. The three persons receiving the highest numbers of votes are elected to four-year terms, and the two persons receiving the next highest numbers of votes are elected to two-year terms. In 1991 and quadrennially thereafter, two persons are elected to four-year terms. In 1993 and quadrennially thereafter, three persons are elected to four-year terms.

(e) The Mayor shall be elected in 1989 and quadrennially thereafter by the qualified voters of the entire town for a four-year term.

(f) Effective at the organizational meeting after the 1989 election, the Board of Commissioners of the Town of Calabash is expanded from five to seven members.

(Sess. Laws 1989, Ch. 593, § 2)

Sec. 3. [REFERENDUM.]

Sections 1 and 2 of this act shall become effective only if approved separately by the qualified voters of the Town of Calabash and the qualified voters in the area described in Section 1 of this act. The referendum shall be conducted by the Brunswick County Board of Elections on August 22, 1989. Notwithstanding G.S. § 163-33(8), notice of the election shall be given at least 14 days prior to the date on which the registration books or records are closed for the election. The Brunswick County Board of Elections shall identify the qualified voters in the area described in Section 1 of this act in accordance with G.S. § 163-288.2.

(Sess. Laws 1989, Ch. 593, § 3)

Sec. 4. [BALLOT QUESTION.]

The question on the ballot shall be:

[] FOR Consolidation of Carolina Shores Village into the Town of Calabash

[] AGAINST Consolidation of Carolina Shores Village into the Town of Calabash".

(Sess. Laws 1989, Ch. 593, § 4)

Sec. 5. [MAJORITY OF VOTES TO EFFECT ACT.]

In such election, if a majority of the votes in the Town of Calabash, and a majority of the votes in the area described in Section 1 of this act are cast "FOR Consolidation of Carolina Shores Village into the Town of Calabash, then effective August 31, 1989, Sections 1 and 2 of this act are effective. Otherwise, they have no force and effect.

(Sess. Laws 1989, Ch. 593, § 5)

Sec. 6. [CANDIDATE FILING; QUALIFICATIONS.]

Notwithstanding G.S. § 163-294.2, the candidate filing period for the 1989 municipal elections in the Town of Calabash shall open at 12:00 noon on the last Friday in August and close at 12:00 noon on the second Friday in September. If Sections 1 and 2 of this act become effective, then any person identified as a qualified voter in the area described in Section 1 of this act in accordance with G.S. § 163-288.2 shall be

entitled to be a candidate after the filing period opens, even though that is prior to the August 31, 1989, elective date of the annexation. (Sess. Laws 1989, Ch. 593, § 6)

Sec. 6.1. [AMENDMENT TO ACT IN REGARD TO TOWN OF HOLDEN BEACH.]

Section 3 of Chapter 1019, Session Laws of 1987, as amended by Section 3 of Chapter 456, Session Laws of 1989, is amended by adding the following immediately before the period at the end: ", but as to the Town of Holden Beach, Section 1 of this act applies only to areas within the corporate limits of the town as of June 26, 1989." (Sess. Laws 1989, Ch. 593, § 6.1)

Sec. 7. [EFFECTIVE DATE.]

This act is effective upon ratification. (Sess. Laws 1989, Ch. 593, § 7)

In the General Assembly read three times and ratified this the 6th day of July, 1989.

JAMES C. GARDNER /s/
James C. Gardner
President of the Senate

J. L. MAVRETIC /s/
J. L. Mavretic
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 ASSEMBLY
RATIFIED BILL

CHAPTER 621
HOUSE BILL 1384

AN ACT TO LIMIT THE HEIGHT OF STRUCTURES IN THE TOWN OF CALABASH AND TO ALLOW EXCEPTIONS TO THE HEIGHT LIMIT UPON APPROVAL BY REFERENDUM:

The General Assembly of North Carolina enacts:

Section 1. No building erected within the corporate limits of the Town of Calabash may have a height in excess of 35 feet above ground level unless:

(1) The building was erected before the effective date of this act; or

(2) Subject to the approval of the qualified voters of the Town of Calabash, the Town Council adopts an ordinance granting an exception to the height limit.

Sec. 2. The Town Council may direct the Brunswick County Board of Elections to conduct a referendum on the question of whether an exception to the height limitation imposed by this act should be granted. The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287. The form of the question to be presented on the ballot for special election concerning an exception to the height limit shall be:

FOR AGAINST

Adoption of the ordinance to grant an exception to the height limit of 35 feet above ground level for buildings in the Town of Calabash, as follows: (describe the effect of the ordinance)."

If a majority of those voting in the referendum held pursuant to this act vote in favor of the adoption of the ordinance, the ordinance shall be effective pursuant to its terms.

Sec. 3. The height limitations created by Section 1 of this act does not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Sec. 4. This act is effective upon ratification. In the General Assembly read three times and ratified this the 21st day of June, 1996.

DENNIS A. WICKER /S/
Dennis A. Wicker
President of the Senate

HAROLD J. BRUBAKER /S/
Harold J. Brubaker
Speaker of the House of Representatives

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997
S.L. 1998 - 75
HOUSE BILL 860
RATIFIED BILL**

**AN ACT TO INCORPORATE THE TOWN OF
CAROLINA SHORES FROM AN AREA
PREVIOUSLY ANNEXED INTO THE TOWN OF
CALABASH.**

The General Assembly of North Carolina enacts:

Section 1. (a) The area annexed to the Town of Calabash by Section 1 of Chapter 593 of the Session Laws of 1989 is removed from the corporate limits of the town.

This section shall have no effect upon the validity of any liens of the Town of Calabash for ad valorem taxes or special assessments outstanding before the effective date of this section, and such liens may be collected or foreclosed upon after the effective date of this section as though the property were still within the corporate limits of the Town of Calabash. Notwithstanding the previous sentence, if the Town of Carolina Shores is not incorporated as provided by Sections 2 through 7 of this act, the ad valorem taxes for fiscal year 1998-99 for the area removed from the Town of Calabash by this section are released and the liens shall not attach.

(b) The Brunswick County Board of Elections shall conduct an election on September 15, 1998, for the purpose of submission to the qualified voters of District 1 of the Town of Calabash and to the qualified voters of District 2 of the Town of Calabash the question of whether or not the area described in subsection (a) of this section shall be removed from the corporate limits of the Town of Calabash. Notwithstanding G.S. 163-33(8), notice of the election shall be given at least 14 days prior to the last date to register for the election under G.S. 163-82.6(c)(2).

(c) In the election, the question on the ballot shall be:

FOR AGAINST

Removal of Carolina Shores from the corporate limits of the Town of Calabash."

(d) In such election, if a majority of the votes cast in either District 1 or District 2 shall be cast "FOR" the question, then subsection (a) of this section is effective on th date that the Brunswick County Board of Elections determines the result of the election. In such case, from that date until the

organizational meeting after the 1999 municipal election, the members of the Board of Commissioners of the Town of Calabash are Sam Bierworth, Forrest King, Keith Hardee, Robert Simmons, Rosemary Raleigh, and John Collins. They shall choose a Mayor from among the members of the Board to serve until the organizational meeting after the 1999 municipal election.

(e) In such election, if a majority of the votes cast in both District 1 and District 2 are not cast "FOR" the question, then subsection (a) of this section shall have no force and effect.

(f) Beginning with the organizational meeting after the 1999 municipal election, the Board of Commissioners of the Town of Calabash consists of four members.

Section 2. A Charter for the Town of Carolina Shores is enacted to read:

**"CHARTER OF THE TOWN OF
CAROLINA SHORES
CHAPTER I.
INCORPORATION AND CORPORATE
POWERS."**

"Sec. 1.1. Incorporation and Corporate Powers. The inhabitants of the Town of Carolina Shores are a body corporate and politic under the name 'Town of Carolina Shores'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed upon the cities by the general law of North Carolina."

**"CHAPTER II.
CORPORATE BOUNDARIES."**

"Sec. 2.1. Town Boundaries. Until modified in accordance with law, the boundaries of the Town of Carolina Shores are those annexed to the Town of Calabash by Section 1 of Chapter 593 of the Session Laws of 1989."

**"CHAPTER III.
GOVERNING BODY."**

"Sec. 3.1. Structure of Governing Body; Number of Members. The governing body of the Town of Carolina Shores is the Town Board of Commissioners and the Mayor. The Town Board of Commissioners has five members."

"Sec. 3.2. Manner of Electing Board. The qualified voters of the entire Town elect the members of the Board of Commissioners."

"Sec. 3.3. Term of Office of Board Members.

(a) Alden Craft, George Dale, John Elliot, Robert Lovaty, and Edwin Mugridge are appointed members of the Board of Commissioners to serve until the organizational meeting after the 1999 municipal election.

(b) In 1999 five members of the Board of Commissioners are elected. The three persons receiving the highest numbers of votes are elected to four-year terms and the two persons receiving the next highest numbers of votes are elected to two-year terms. In 2001 and quadrennially thereafter, two members of the council are elected to four-year terms. In 2001 and quadrennially thereafter, three members of the council are elected to four-year terms."

"Sec. 3.4. Selection of Mayor; Term of Office. The qualified voters of the entire Town elect the Mayor. Theodora Altreuter shall serve as Mayor to serve until the organizational meeting after the 1999 municipal election. A Mayor shall be elected in 1999 and quadrennially thereafter for a four-year term."

**"CHAPTER IV.
ELECTIONS."**

"Sec. 4.1. Conduct of Town Elections. The Town Board of Commissioners shall be elected on a nonpartisan basis and the results determined by the plurality method as provided by G.S. 163-292."

**"CHAPTER V.
ADMINISTRATION."**

"Sec. 5.1. Mayor-Board Plan. The Town of Carolina Shores operates under the Mayor-Board of Commissioners plan as provided by Part 3 of Article 7 of Chapter 106A of the General Statutes."

**"CHAPTER VI.
PLANNING."**

"Sec. 6.1. Extraterritorial Jurisdiction. The area to the north of North Carolina Highway 179 and Thomasboro Road which was within the extraterritorial jurisdiction of the Town of Calabash under Article 19 of Chapter 160A of the General Statutes which is not in the Town limits of the Town of Calabash is placed within the extraterritorial jurisdiction of the Town of Carolina Shores under Article 19 of Chapter 160A of the General Statutes upon the adoption of a zoning ordinance by the Town of Carolina Shores."

"Sec. 6.2. Applicability of Calabash Planning Ordinances. Any regulations and powers of enforcement of the Town of Calabash under Article 19 of Chapter 160A of the General Statutes shall remain in effect within the Town of Carolina Shores until the earlier of: (i) the Town of Carolina Shores adopting such regulations, or (ii) 60 days after the incorporation is effective. During this period the Town of Carolina Shores may hold hearings and take any other measures that may be required in order to adopt its regulations for the area under that Article."

Section 3. From and after January 1, 1999, the citizens and property in the Town of Carolina Shores shall be subject to municipal taxes levied for the year beginning January 1, 1999, and for that purpose the Town shall obtain from Brunswick County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1999, and the business in the Town shall be liable for privilege license tax from the effective date of the privilege license tax ordinance. The Town of Carolina Shores shall not levy any ad valorem taxes or privilege license taxes for the 1998-99 fiscal year.

Section 4. The boundaries of the Town of Calabash are as follows:

BEGINNING at a point where the North Carolina-South Carolina State line intersects the Northern Right-of-Way of NC highway 179 (60' R/W); thence with said Right-of-Way, S 88 16' 47"E, 419.92'; S 82 10' 09"E, 1022.11'; N 87 34' 25"E, 619.79'; N 77 30' 00"E, 205.42'; N 76 45' 07"E, 125.12' to a point where said Northern Right-of-Way intersects the Eastern Right-of-Way of SR 1168, County Club Drive; thence with said eastern right-of-way N 03 49' 49"E, 61.55'; N 04 12' 15"E, 43.00'; N 03 54' 03"E, 218.87' to the Northwest corner of Tract #7, CLA Properties, Inc., as Recorded in Map Cabinet "K", Page 44 of the Brunswick County Register of Deeds; thence with the Northern line of Tract #7, N 85 32' 33"E, 762.30' to the Northeast corner of said Tract #7; thence with the Boundary lines of CLA Properties, Inc., as shown in Map Cabinet "K", Page 44 the following bearings and distances: N 85 32' 33"E, 250.00'; N 82 04' 15"E, 439.56'; N 87 00' 46"W, 779.48'; N 30 14' 30"W, 1506.91'; N 60 36' 40"E, 452.61'; N 30 33' 19"W, 1842.10' to the Southwest corner of Saltaire Village; thence with the Southern lines of Saltaire Village; N 60 58' 58"E, 698.43'; N 60 58' 01"E, approximately 628.50' to a point in the Eastern Right-of-Way of SR 1167 (60'R/W) thence with said Right-of-Way in a Northerly direction to the Southwest corner of Carolina Shores Acreage Estates as Recorded in Map Book 13, Page 4 of the Brunswick County Register of Deeds; thence with the Southern Boundary line of

Carolina Shores Acreage Estates approximately 1230' to a point; thence with the Western Boundary line of Acreage Estate, a common line with Hunters Trace Subdivision as Recorded in Map Cabinet "O", Page 332, a southerly direction to a point projected to the Southern Right-of-Way of SR 1165; thence with said Right-of-Way in an Easterly Direction to the Northwest corner of Calabash Acres as recorded in Map Book 9, Page 39 of The Brunswick County Register of Deeds; thence with the Western lines of Calabash Acres in a Southerly direction to a point in the Thread of the Calabash River; thence down said river and along the thread to a point where it intersects the North Carolina-South Carolina State line; thence with said State line N 44 37' 44"W to the Place and Point of BEGINNING. The boundaries also include any areas annexed to the Town of Calabash under Article 4A of Chapter 160A of the General Statutes after December 31, 1996, that might not be included in the description above.

Section 5. (a) The Brunswick County Board of Elections shall conduct an election on the same date as the referendum provided by Section 1 of this act, for the purpose of submission to the qualified voters of the area described in Section 2.1 of the Charter of Carolina Shores, the question of whether or not such area shall be incorporated as Carolina Shores. Registration for the election shall be conducted in accordance with G.S. 163-288. Notwithstanding G.S. 163-33(8), notice of the election shall be given at least 14 days prior to the last date to register for the election under G.S. 163-82.6(c)(2).

(b) In the election, the question on the ballot shall be:

FOR AGAINST

Incorporation of Carolina Shores".

Section 6. In such election, if either a majority of the votes cast are not cast "FOR Incorporation of Carolina Shores", or if the question proposed by Section 1(c) of this act is not approved as provided by that section, then Sections 2 through 4 of this act shall have no force and effect.

Section 7. In such election, if a majority of the votes cast shall be cast "FOR Incorporation of Carolina Shores", and if the question proposed by Section 1(a) of this act is approved as provided by that section, then Sections 2 through 4 of this act shall become effective on the date that the Brunswick County Board of Elections determines the result of the election.

Section 8. (a) The Board of Commissioners of the Town of Calabash shall, prior to the date of the referendum provided by this act, adopt a fair and equitable plan for the distribution of the assets and liabilities, other than those set aside by subsection (b) of this section, of the Town of Calabash between the Town of Calabash and the Town of Carolina Shores. The plan must be approved by the Local Government Commission. If the Board of Commissioners of the Town of Calabash fails to adopt such a plan by the deadline provided by this subsection, then the Local Government Commission shall adopt a fair and equitable plan.

The plan adopted under this section shall include among the assets the ad valorem tax levy of the Town of Calabash for the 1998-99 fiscal year and any other shared revenues received by the Town of Calabash during the 1998-99 fiscal year (such as local option sales taxes), such that the proceeds may be divided between the two towns to support their budgets for that fiscal year.

(b) Property owned by the Town of Calabash on June 30, 1989, and the amount of fund balance of the Town of Calabash at the end of the 1988-89 fiscal year are excluded from the plan adopted under subsection (a) of this section.

(c) The plan is effective only if the Town of Carolina Shores is incorporated pursuant to Sections 2 through 7 of this act.

Section 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of August, 1998.

DENNIS A. WICKER /s/
Dennis A. Wicker
President of the Senate

HAROLD J. BRUBAKER /s/
Harold J. Brubaker
Speaker of the House of Representatives

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999**

**SESSION LAW 1999-16
SENATE BILL 300**

AN ACT REPEALING THE TOWN OF CALABASH'S LIMITATIONS ON THE HEIGHT OF BUILDINGS, EXTENDING THE TOWN'S EXTRATERRITORIAL JURISDICTION, INCREASING THE NUMBER OF TOWN COMMISSIONERS, AND STAGGERING THE COMMISSIONERS' TERMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 621 of the 1995 Session Laws is repealed.

Section 2. In addition to any areas where the Town of Calabash exercises extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes, the Town shall have extraterritorial jurisdiction under that Article in the following described are:

From that portion of the existing extraterritorial jurisdiction line that bisects the Ocean Harbour Golf Course in a southeasterly manner through the Ocean Harbour Estates subdivision to the middle of the Intracoastal Waterway.

Section 3. Section 1.(f) of S.L. 1998-75 reads as rewritten:

"(f) Beginning with the organizational meeting after the 1999 municipal election, the governing body of the Town of Calabash shall consist of the Town Board of Commissioners and the Mayor. The Town Board of Commissioners has five members. The Commissioners and the Mayor shall be elected to four-year terms by the qualified voters of the entire Town. In 1999, the two persons receiving the highest number of votes are elected to four-year terms and the three persons receiving the next highest number of votes are elected to two-year terms. In 2001, and quadrennially thereafter, three persons are elected to four-year terms. In 2003, and quadrennially thereafter, two persons are elected to four-year terms."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this 6th day of April, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James R. Black
Speaker of the House of Representatives

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-37
HOUSE BILL**

AN ACT TO REMOVE THE PERCENTAGE OF AREA LIMITATION FOR SATELLITE ANNEXATIONS BY VARIOUS MUNICIPALITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

Section 2. This act applies to the Cities of Marion, Oxford, and Rockingham and the Towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, and Waynesville only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and
ratified this 26th day of April, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker Pro Tempore of the House of
Representatives

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

**Title I Chapter 10
General Provisions**

Index Chapter 10, General Provisions	
GENERAL PROVISIONS	§10.19 Ordinances Which Amend or Supplement
§ 10.01 Title of Code	§10.20 Section Histories, Statutory References
§10.02 Authority	§10.21 Tampering or defacing code unlawful
§10.03 History	§10.22- §10.29 Reserved
§10.04 Interpretation	PUBLIC RECORDS
§ 10.05 Application to Future Ordinances	§10.30 General
§10.06 Captions and Indexes	§10.31 Classification of Public Records
§10.07 Definitions	§10.32 Means of record destruction
§10.08 Rules of Interpretation	§10.33 Adoption of schedule
	§10.34-§10.49 Reserved
§10.09 Severability	ADMINISTRATION
§10.10 Reference to Other Sections	§10.50 Administrative Procedure for Ordinance Amendment
§10.11 Reference to Offices	§10.51 Official Books of Ordinances
§10.12 Errors and Omissions	§10.52-§10.79 Reserved
§10.13 Official Time	PENALTY
§10.14 Reasonable Time	§10.80-§10.98 Reserved
§10.15 Ordinances Repealed	§10.99 General penalty
§10.16 Ordinances Unaffected	APPENDIX
§10.17 Effective Date of Ordinances	Forms
§10.18 Repeal or Modification of Ordinances	

GENERAL PROVISIONS

§10.01 Title of Code

- (A) This codification of ordinances by and for the Town of Calabash shall be designated as the Code of Calabash and may be so cited.
- (B) Alternative equivalent terms such as “Calabash Code”, “Calabash Ordinances”, “Town Ordinances”, “Ordinance(s)” or terms of similar or the same meaning may be used throughout the code of ordinances.

§10.02 Authority

- (A) NCGS § 160A-174 provides the town with general ordinance making power. A city 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 city, and may define and abate nuisances.
- (B) A city ordinance shall be consistent with the Constitution and laws of North Carolina and of the United States. An ordinance is not consistent with State or federal law when:
 - (1) The ordinance infringes a liberty guaranteed to the people by the State or federal Constitution;
 - (2) The ordinance makes unlawful an act, omission or condition which is expressly made lawful by State or federal law;
 - (3) The ordinance makes lawful an act, omission, or condition which is expressly made unlawful by State or federal law;
 - (4) The ordinance purports to regulate a subject that cities are expressly forbidden to regulate by State or federal law;

Title I Chapter 10
General Provisions

- (5) The ordinance purports to regulate a field for which a State or federal statute clearly shows a legislative intent to provide a complete and integrated regulatory scheme to the exclusion of local regulation;
- (6) The elements of an offense defined by a city ordinance are identical to the elements of an offense defined by State or federal law.
- (C) The fact that a State or federal law, standing alone, makes a given act, omission, or condition unlawful shall not preclude city ordinances requiring a higher standard of conduct or condition.
[Reference NCGS § 160A-174]

§10.03 History

- (A) The Calabash Code of Ordinances was maintained by a second party and was last recodified in 1994. Periodic supplementary updates were performed by the second party until 2002.
 - (1) There has been no verification of legislative changes since 1994 (other than as required during the internal ordinance amendment process).
 - (2) There have been no supplemental updates since 2002.
- (B) During the June 13, 2006 Board of Commissioners routine meeting a decision was made to have Title XV, "Land Use" recodified by Holland Consulting. Title XV was renamed The Unified Development Ordinance (UDO) and as of September 2009 is undergoing review.
- (C) During the November 11, 2008 routine meeting the Board of Commissioners voted unanimously to perform a recodification of all ordinance titles other than Title XV internally due to the significant number of amendments made since the last recodification and the town has numerous resources available that had not been available prior to the last recodification.
 - (1) Recodification will be done and approved as individual chapters.
 - (2) Update to include all presently approved amendments.
 - (3) Verify and update to reflect any recent revisions in the North Carolina General Statutes.
 - (4) Reformat to eliminate the two column format.
 - (5) Increase typeface to a minimum of 11 pt. to improve readability.
 - (6) Add page header to include title and chapter identification.
 - (7) Consecutive numbering per chapter rather than for entire ordinance.
 - (8) Review and amend as appropriate to insure conformity with desired best practices.

§10.04 Interpretation

- (A) Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.
- (B) The rules of construction given in G.S. 12-3 and 153A-1 shall govern, so far as applicable, the construction of words not defined in this section or other sections of this Code.
[Reference: NCGS §12-3 and §153A-1]

§10.05 Application to Future Ordinances

- (A) All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided
- (B) Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes (NCGS) and that section is later amended or superseded,

Title I Chapter 10
General Provisions

the Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

§10.06 Captions and Indexes

- (A) Headings, captions and indexes used in this code other than the title, chapter, and section numbers are employed for reference purpose only and shall not be deemed a part of the text of any section.

§10.07 Definitions

- (A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense and as defined in a standard American English dictionary. Words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.
- (B) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires different meaning.

Administrative Value: No longer useful to the intended recipient(s) for reference, action or research.

Board of Commissioners, Town Board or Board or abbreviated B.O.C. : The legislative body of the town.

Code, This Code, Ordinances or This Code of Ordinances: This town code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

County: Brunswick County, North Carolina.

May: The act referred to is permissive.

Month: A calendar month.

Publish: To make available for public inspection in a written format either on paper and/or electronically.

Town, Municipal Corporation or Municipality: The Town of Calabash, North Carolina.

Oath: Affirmations in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR and SWORN** shall be equivalent to the words **AFFIRM and AFFIRMED**.

Officer, Office, Employee, Commission or Department: An officer, office, employee, commission, or department of this town unless the context clearly requires otherwise.

Person: Extends to and includes person, persons, firm, corporation, partnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to corporations, the officers or agents thereof.

Preceding or Following: Next before or next after, respectively.

Shall: The act referred to is mandatory.

Signature or Subscription: Includes a mark when the person cannot write.

State: The state of North Carolina.

Title I Chapter 10 General Provisions

Subchapter: A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

Written: Any representation of words, letters, or figures, whether by printing or otherwise.

Year: A calendar year, unless otherwise expressed; equivalent to the words **YEAR OF OUR LORD**.

§10.08 Rules of Interpretation

- (A) The construction of all ordinances of this town shall be by the following rules, unless such construction is plainly repugnant to the intent of the Board of Commissioners or of the context of the same ordinance:
- (B) The rules of construction given in G.S. 12-3 and 153A-1 shall govern, so far as applicable, the construction of words not defined in this section or other sections of this Code.
 - (1) **AND** or **OR**. Either conjunction shall include the other as if written “and/or,” if the sense requires it. The words “and” and “or” have their ordinary meanings.
 - (2) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.
 - (3) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.
 - (4) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.
[Reference: NCGS §12-3 and §153A-1]

§10.09 Severability

- (A) The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentence, clauses, or phrases of this Ordinance since the same would have been enacted without the incorporation into this Ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.
- (B) If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§10.10 Reference to Other Sections

- (A) Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

Title I Chapter 10
General Provisions

§10.11 Reference to Offices

- (A) Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this town exercising the powers, duties, or functions contained in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§10.12 Errors and Omissions

- (A) If an error is discovered consisting of the misspelling of any words; typographical errors, the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or submitted as will conform with the intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published.
- (B) No alteration shall be made or permitted if any question exists regarding the nature or extent of such error and the Board of Commissioners shall provide clarification.

§10.13 Official Time

- (A) The official time, as established by applicable state/federal laws, shall be the official time within this town for the transaction of all municipal business.
- (B) Whenever certain hours are named in this Code, they shall mean standard time or daylight saving time as may be in current use in the county.
- (C) Computation of time
 - (1) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.
 - (2) When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
 - (3) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

§10.14 Reasonable Time

- (A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.
- (B) Reasonable time shall be defined in measurable terms (hours, days, weeks, months etc.) in each instance an act is to be performed.
- (C) The time within which an act is to be done shall be computed by excluding the first day and including the last. If the last day is Sunday, it shall be excluded.

§10.15 Ordinances Repealed

- (A) From and after its effective date of each chapter recodification or amendment, shall contain or reference all of the provisions-pertaining to the subjects contained.
- (B) All prior ordinances pertaining to the subjects treated by this recodified or amended code shall be deemed repealed from and after the effective date of the chapter recodification or amendment.

§10.16 Ordinances Unaffected

- (A) All ordinances of a temporary or special nature and all other ordinances pertaining

Title I Chapter 10
General Provisions

to subjects not embraced in this amended or recodified code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§10.17 Effective Date of Ordinances

- (A) Each ordinance and/or amendment may be issued an effective date by the Board of Commissioners at the time of ordinance passage.
 - (1) Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.
 - (2) All ordinances passed by the Board of Commissioners requiring publication shall take effect:
 - a. From and after the issuance of an effective date and publication which shall be within five days of passage if no specific effective date is expressly provided.
 - b. From and after the issuance of an effective date and publication as expressly provided by the Board of Commissioners.

§10.18 Repeal or Modification of Ordinances

- (A) Whenever any ordinance or part of an ordinance is repealed or modified by a subsequent ordinances, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.
- (B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.
- (C) When any ordinance repealing a former ordinance, clause, or provision is repealed, the repeal shall not be constructed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§10.19 Ordinances Which Amend or Supplement Code

- (A) If the Board of Commissioners amends any existing chapter or section of this code, the chapter or section is repealed on the effective date of the amendment. A new chapter or section, containing the desired amendment shall be submitted in its place.
- (B) Each amendment is done as a chapter recodification and all amendments shall be inserted into the code in proper order with all required title, chapter, sections and page numbers updated to correct chapter order. All repealed sections are removed from the code as the newly amended code is issued.

§10.20 Section Histories, Statutory References

- (A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: [Ord. passed 5-13-60; Am. Ord. passed 1-1-70; Am. Ord. passed 1-1-80; Am. Ord. passed 1-1-85]
- (B) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: [G.S. § 160A-69] [Ord. passed 1-17-80; Am. Ord. passed 1-1-85]

Title I Chapter 10
General Provisions

§10.21 Tampering or defacing code unlawful

- (A) It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to alter or tamper with the code in any manner whatsoever which will cause the ordinances of the Town of Calabash to be misrepresented thereby.
- (B) Any person violating this section shall be guilty of a misdemeanor, and shall be fined \$200 as provided in section §10.99 of the Town of Calabash code. Each violation is a separate and distinct offense.

§10.22 Through §10.29 Reserved

Title I Chapter 10
General Provisions

PUBLIC RECORDS

§10.30 General

- (A) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

[Reference: GS § 121-2. Definitions.(8)]

- (B) The Town Clerk is custodian for all city records.

[GS 160A-171 Duties of the Town Clerk]

- (C) The Department of Cultural Resources shall be the official archival agency of the State of North Carolina with authority as provided throughout this Chapter and Chapter 132 of the General Statutes of North Carolina in relation to the public records of the State, counties, municipalities, and other subdivisions of government.

For purposes of this ordinance The Department of Cultural Resources means specifically The Department of Cultural Resources, Division of Historical Resources, Archives and Records Section, Government Records Branch.

[Reference: GS§ 121-5. (a) NCDCCR responsible for the management of public records]

- (D) No person may destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, mutilates, or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined at the discretion of the court.

[Reference: GS§ 121-5. (b) destruction of public records regulated]

- (E) When the custodian of any official State records certifies to the Department of Cultural Resources (NCDCCR) that such records have no further use or value for official and administrative purposes and when the Department certifies that such records appear to have no further use or value for research or reference, then such records may be destroyed or otherwise disposed of by the agency having custody of them.

[Reference: GS§ § 121-5. Public records and archives(b) "NCDCCR approval required for disposal]

- (F) A records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of official records shall be administered by the Department of Cultural Resources. It shall be the duty of that Department, in cooperation with and with the approval of the Department of Administration, to establish standards, procedures, and techniques for effective management of public records, to make continuing surveys of paper work operations, and to recommend improvements in current records management practices including the use of space, equipment, and supplies employed in creating, maintaining, and servicing records.

[Reference: § 132-8.1. Records management program administered by Department

Title I Chapter 10
General Provisions

of Cultural Resources]

- (G) The North Carolina Historical Commission is hereby authorized and empowered to make such orders, rules, and regulations as may be necessary and proper to carry into effect the provisions of this section. When any State, county, municipal, or other governmental records shall have been destroyed or otherwise disposed of in accordance with the procedure authorized in this subsection, any liability that the custodian of such records might incur for such destruction or other disposal shall cease and determine.

[Reference: GS§ 121-5, Public records and Archives(b) liability of custodian shall cease]

- (H) The Department of Cultural Resources provides a schedule of Records Retention and Disposition dated May 19, 2009 (or most current revision) which is made a part of this ordinance by reference. This schedule is the primary way DCR gives its consent.

- (1) This schedule if available by request from the North Carolina Dept. of Cultural Resources, Government Records Branch or available electronically as of June 2010 at the official web site [http://www.records.ncdcr.gov/local/default.htm].
- (2) By approving this schedule it becomes the official schedule for the municipality. Without approving this schedule, the municipality is obligated to obtain the Department's permission to destroy *any* record, no matter how insignificant.
- (3) If there are questions regarding the status of a public record in respect to the Records Retention and Disposition Schedule the North Carolina Dept. of Cultural Resources, Government Records Branch has the responsibility for determining category and disposition.
- (4) NCDRC recommends record destruction according to the schedule. Records may be retained longer only for specific and documented reason.

[Reference: NCDRC Retention and Disposition Schedule, Municipal; pg. ii]

§10.31 Classification of Public Records

- (A) Public Records With Short Term Value include, but are not limited to:
- (1) facsimile cover sheets containing only transmittal ("to" and "from") information, or information that does not add significance to the transmitted material;
 - (2) routing slips or other records that transmit attachments;
 - (3) reservations and confirmations;
 - (4) personal messages (including electronic mail) not related to official business;
 - (5) preliminary or rough drafts containing no significant information that is not also contained in the final drafts of the records;
 - (6) documents downloaded from the World Wide Web or by file transfer protocol not used in the transaction of business;
 - (7) records that do not contain information necessary to conduct official business, meet statutory obligations, carry out administrative functions, or meet organizational objectives.

The records described above or listed as such on the Records Retention and Disposition Schedule may be destroyed or otherwise disposed of when their

Title I Chapter 10
General Provisions

reference value ends. Most email and routine correspondence will be in this category.

[Reference: NCDCCR Retention and Disposition Schedule, Municipal; pg. x]

- (B) Short Term records that are maintained Records Retention and Disposition schedule for variable periods include, but are not limited to:
 - (1) Project files
 - (2) Work orders (equipment repair)
 - (3) Activity reports (animal control)
 - (4) Accounts payable
 - (5) Accounts receivable
- (C) Permanent and listed as such on the Records Retention and Disposition Schedule records include, but are not limited to:
 - (1) Ordinances, one official copy.
 - (2) official minutes of the governing board and its subsidiary boards are considered to be permanent records
 - (3) Public hearing minutes

[Reference: NCDCCR Retention and Disposition Schedule, Municipal]

§10.32 Means of record destruction

- (A) burned, unless prohibited by local ordinance;
- (B) shredded, or torn up so as to destroy the record content of the documents or material concerned;
- (C) placed in acid vats so as to reduce the paper to pulp and to terminate the existence of the documents or materials concerned;
- (D) buried under such conditions that the record nature of the documents or materials will be terminated;
- (E) sold as waste paper, provided that the purchaser agrees in writing that the documents or materials concerned will not be resold as documents or records.
- (F) Electronic records (e.g. email and the like) may be deleted.

[Reference: NCDCCR Retention and Disposition Schedule, Municipal; pg.iv; N.C. Administrative Code, Title 7, Chapter 4, Subchapter M, Section .0510]

§10.33 Adoption of schedule

- (A) The Town of Calabash shall use the Schedule of Records Retention and Disposition, Municipal, dated May 19, 2009 (or most current revision) for the efficient management of public records.
- (B) The signed municipal Records and Retention Schedule agreement is made a part of this ordinance and is on file with the office of the Town Clerk, Town of Calabash NC.

§10.34-§10.49 Reserved

Title I Chapter 10
General Provisions

ADMINISTRATION

§10.50 Administrative Procedure for Ordinance Amendment

- (A) An Ordinance Change Request Form (form TOC 0001) shall be generated for each revision request and provide the following information:
- (1) Who is requesting the change.
 - (2) Where in the ordinance is or the changes are requested.
 - (3) What is the reason for the change (justification).
 - (4) What is the desired change (a brief description e.g. revise Title I, Chapter 10 to add a section to provide for the creation and maintenance of a Code of Ordinances history file. Define file contents, the length of time it is to be maintained and the process used to issue revisions to each official book holder”).
- (B) The town staff or the requestor shall prepare a “red line” document with the text to be changed lined through and the replacement text highlighted for board review (General code reviewed by Board of Commissioners and Land Usage (UDO) reviewed by both Planning and Zoning Board and Board of Commissioners) plus a copy of the advertised public hearing notice.
- (C) The town shall maintain a history file of ordinance changes for a period of at least ten years.
- (D) For each ordinance change the following shall be placed in each file:
- (1) The Ordinance Change Request Form.
 - (2) The red line/highlighted document.
 - (3) The date of BOC approval for reference to minutes of the appropriate board meeting.
 - (4) Any ancillary information deemed necessary by town staff necessary to better explain the change rationale.
- (E) Each ordinance change history will be maintained in order of Chapter/Article, Section and chronologically in order of revisions so that successive revisions of the same section are immediately obvious to the researcher.
- (F) Copies of the changed ordinance shall be prepared and provided to each holder of an official book of ordinances.
- (1) Entire pages will be replaced if the ordinance is in an editable format. The book holder is responsible for the removal and destruction of the original page.
 - (2) If the original ordinance is non-editable, the revised ordinance is to be given the page number of the original ordinance page followed by an alpha suffix (e.g. “page 123A”) and it shall immediately follow the original page.
 - (3) If appropriate, the changed ordinance will be posted on the town web site for citizen reference.
- (G) Forms may be generated as needed in order to provide complete information and supplemented as required by an ordinance.
- (1) Forms exist to supplement ordinances and, as such, are not in themselves an ordinance and should not contain specific requirements.
 - (2) Forms that are specific to an ordinance should reference the ordinance they supplement.
 - (3) Forms shall be sequentially numbered “TOC-0001” for forms supplementing general code (or supplemental to both general ordinances and land usage ordinances e.g. TOC-0001 may be used for changes in either general ordinances or land usage ordinances). Forms supplemental to land

Title I Chapter 10
General Provisions

usage/unified development ordinances shall be numbered "TOC-1001".

- (4) For each form the version date shall immediately follow the form number.
- (5) Forms shall be indexed and become an appendix to the book of general ordinances so they are available to holders of all official books of ordinances.
- (6) If appropriate, the form may be placed on the town's web site for citizen accessibility. [Ord. passed 02-12-2008]

§10.51 Official Books of Ordinances

- (A) The Town Clerk shall be responsible for the maintenance of all official books of town ordinances.
- (B) Official books shall be provided to:
 - (1) Elected officials shall have copies of both the general ordinances and land use (or Unified Development Ordinance). Six books total.
 - (2) Planning and zoning board members, land use (or Unified Development Ordinance). Seven books total.
 - (3) Town staff, copies of both the general ordinances and land use (or Unified Development Ordinance). Six books total.
 - (4) Board of Adjustment, land use (or Unified Development Ordinance). Eight books total.
 - (5) The Town Attorney. One book.
- (C) The Town Clerk shall issue 13 updates and cover letter containing instructions pertaining to updating each "official" book of code for amendments to the Town of Calabash general code and 28 updates if the amended code is for the land usage (or Unified Development Ordinance).

§10.52 §10.79 Reserved

Title I Chapter 10
General Provisions

PENALTY

§10.80 §10.98 Reserved

§10.99 General Penalty

- (A) Violation of local ordinances misdemeanor.
- (1) Except as provided in subsection (b), any person who violates an ordinance of the Town of Calabash shall be guilty of a Class 3 misdemeanor and shall be subject to amount of fines specified in NC State Statutes, where provided. For penalties not specified in NC State Statutes, violators shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the NC State Statutes or this ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00). [Ord. Am. 2-12-13]
 - a. *Criminal.* Any person, firm, or corporation violating any section or provision of this Code shall, upon conviction, be guilty of a class 3 misdemeanor. Each day a violation continues, however, shall be a separate and distinct offense.
 - b. *Civil.* Each day such violation continues shall be a separate and distinct offense.
 - c. Written citations incurring fines issued for violations of provisions of this Code shall be payable at the town hall not later than three days following issuance.
 - d. In addition to any imposed fines for a-c above, the town shall recover the cost of court and reasonable attorney's fees.
 - (2) If any person shall violate an ordinance of the Town of Calabash regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00).
- (B) Any provision of this code or any other town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be defense to the application of the town for equitable relief that there is an adequate remedy at law.
- (C) Any provision of this code or any other town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the State Rules of Civil Procedure in general and Rule 65 in particular.
- (1) In addition to an injunction, the court may enter an order of abatement, as part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the buildings on the property; that grass mowed; or that any other action be taken that is necessary to bring the property into compliance with this code.
 - a. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and Calabash may execute the order of abatement.
 - b. The town shall have a lien on the property for the cost of executing an

Title I Chapter 10
General Provisions

- order of abatement in the nature of a mechanic's and material man's lien.
- (2) The defendant may secure cancellation of order abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order or abatement shall not suspend or cancel an injunction issued in conjunction therewith.
 - (D) The provisions of this code and any other town ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.
 - (E) Except as otherwise specifically provided, each day's continuing violation of any provision of this code or any other town ordinance shall be a separate and distinct offense. [G.S. § 160A-175]

Town of Calabash

Ordinance Change Request



This change request is to be initiated any time there is a requested revision/addition to an existing ordinance, a request for a zoning change or a requested change to a previously approved conditional use. Explain in sufficient detail so as to provide the reviewer(s) with both the present condition and the requested change. Attach and reference supplemental material and/or "red lined" existing and approved documentation. Zoning change requests are to provide (1) an area overview location map with the property highlighted (2) property to be rezoned showing dimensions and existing structures.

Date of submittal: Month _____ Day _____ Year _____

Who is requesting the change: Name: _____
Address: _____ City: _____
State: _____ Zip Code: _____ Phone: _____

What is the requested change:
Article, section identification
Desired change

Why is this change requested: _____

When is this change needed:
 Urgent Routine Need by

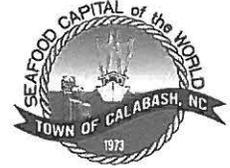
Received by Town of Calabash: Month _____ Day _____ Year 20 _____
By: _____

Effective Date of Ordinance:
This ordinance shall be in full force and effect on its publication or as specified.
Date Passed: _____ day of _____ 20 _____
Effective Date: _____ day of _____ 20 _____

Town Clerk

Town of Calabash

Ordinance Change Notification



Thursday, October 24, 2013

Dear Book holder;

Enclosed you will find current amendments for placement in your volume of the Town of Calabash Official book of ordinances.

Entire pages are to be replaced if the ordinance is in an editable format. If the original ordinance is non-editable, the revised ordinance has been given the page number of the original ordinance page followed by an alpha suffix (e.g. "page 123A") and it shall immediately follow the original page. The original (old section(s)) are to be defaced by marking through so it is obvious that the amendment has been inserted

You, as a book holder, are responsible for the removal and destruction of the original page.

Thank you for your attention to this matter!

(Town Clerk or Designate)