TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM November 14, 2022

TO: Mayor and Board of Commissioners

FROM: Debora P. Diáz, Town Manager

REF: Ongoing Business

1. Golf Carts in Kill Devil Hills (Attached OB-1)

On April 11, 2022, the BOC heard a presentation from Ocean Atlantic Rentals (OAR) in support of permitting electric golf carts on Town streets only on the westside of Town, with no carts allowed to traverse US 158 or the eastside. The proposal recommended a permitting / inspection system of the units, potentially self-regulated by cart owners.

During the OAR presentation, a distinction was made between golf carts and Low Speed Vehicles (LSVs), a different category of vehicle which are licensed and permitted to operate on N.C. roadways with speeds of 35 m.p.h. or less. The OAR proposal only included golf carts, not LSVs.

The BOC requested additional input from the Town Attorney and Staff before further consideration. On May 25, 2022, the BOC reviewed information from Staff and the Town Attorney that highlighted the potential safety and liability concerns that will likely develop if the Town would permit golf carts on any Kill Devil Hills streets. Staff recommended golf carts not be permitted on Town streets. Through consensus, the BOC requested additional information on how other communities have integrated golf carts, including ordinances that did not require inspections by the municipalities.

Staff communicated with communities across North Carolina of various geographic and population sizes, including coastal, piedmont, and mountain areas; and high and low tourism impacted localities. The super-majority of N.C. communities that permit golf carts on their roadways in any form require some method of vehicle inspection. The only exception is the Town of Duck, which does not have an inspection requirement for golf carts.

Attached are ordinances from two localities that permit golf carts: Manteo and Duck. The Town of Manteo's ordinance is an example of the largest number of municipalities that permit golf carts. In contrast, Duck's ordinance does not require an inspection.

Board guidance is appreciated.

AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF MANTEO, NORTH CAROLINA TO ESTABLISH RULES FOR THE OPERATION OF GOLF CARTS
Proposed Code of Ordinances Text Amendment 2022-05 COD

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-300.6 the Town of Manteo (the "Town") may, by ordinance, (i) regulate the operation of golf carts, as defined in G.S. 20-4.01(12b), on any public street, road, or highway where the speed limit is 35 miles per hour or less within its municipal limits or on any property owned or leased by the Town; and (ii) may require the registration of golf carts, charge a fee for the registration, specify who is authorized to operate golf carts, and specify the required equipment, load limits, and the hours and methods of operation of golf carts; and

WHEREAS, pursuant to N.C.G.S. § 160A-174, the Town may enact and amend ordinances which 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 within its jurisdiction. Pursuant to this authority the Town has codified such ordinances within the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, the Town desires to allow for the limited use of golf carts upon the public streets and upon property owned by the Town within the Town's jurisdiction in accordance with the regulations provided via this ordinance amendment; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town Code as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the

adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Town Code.

NOW, THEREFORE, BE IT ORDAINED by the Town Board of Commissioners of the Town of Manteo, North Carolina, that the Town Code be amended as follows:

PART I. That Chapter 46 - Traffic and Vehicles, Article IV – Stopping, Standing and Parking of the Code of Ordinances, Town of Manteo, North Carolina, is hereby amended to add the following:

Secs. 46-123 – 46-150 - Reserved.

PART II. That Chapter 46 -Traffic and Vehicles of the Code of Ordinance, Town of Manteo, North Carolina is hereby amended to add the following:

Article V. – ROAD LEGAL GOLF CARTS

Sec. 46-151. - Definitions.

For the purpose of this article, the following words and phrases shall have the following meanings.

1. Golf cart: A vehicle meeting the more restrictive of: (i) the current definition of a golf cart under N.C.G.S. 20-4.01(12b); or (ii) being designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 MPH.

2. Driver's license: A valid license to operate a motor vehicle issued by North Carolina, any other state or the United States.

3. Financially responsible: Having liability insurance coverage for the operation of a golf cart in an amount not less than that required by North Carolina law for motor vehicles operated on public roads in the State of North Carolina.

4. Road legal golf cart: A golf cart registered with, inspected by and holding valid permits from the town's police chief or his designee and operated by a valid operator and maintained in accordance with the requirements of this article.

5. Valid operator: A financially responsible person over 16 years of age who holds a valid driver's license.

Sec. 46-152. - Operation of Golf Carts.

(a) Operation of golf carts prohibited. Except as expressly allowed by this article, the operation of golf carts upon the public streets, roads, or highways and town owned or leased property within the town is prohibited.

(b) Operation of road legal golf carts allowed. A road legal golf cart may be operated upon the public streets, roads and highways having a speed limit of 35 miles per hour or less and upon town owned or leased parking lots within the town. Golf carts shall not be operated upon U.S. Hwy. 64. Road legal golf carts may cross U.S. Hwy. 64 at the perpendicular intersection of other public roadways.

(c) Operation of road legal golf carts must be in accordance with the following restrictions, requirements and regulations:

1. The operator and passengers shall be properly seated while the golf cart is in motion, and the operator shall not transport in a negligent manner.

2. An operator shall not allow the number of people in the golf cart to exceed the maximum capacity specified by the manufacturer.

3. No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions. No golf cart may be operated at a speed greater than 20 miles per hour.

4. No golf cart may be operated in a careless or reckless manner.

5. Golf carts must be operated in accordance with all applicable state and local traffic laws and ordinances, including all laws, regulations, and ordinances pertaining to the possession and consumption of alcoholic beverages and other illegal drugs.

6. Golf carts shall be subject to the same parking regulations as traditional motor vehicles, and shall only be parked in the same manner and in the same places designated for the parking of traditional motor vehicles. Two golf carts may be parked in a parking space that is designed for the parking of a single traditional motor vehicle if the two golf carts will not obstruct traffic or travel.

7. Golf carts may only park in handicapped spaces if with a valid handicapped placard or sticker that is clearly posted or displayed on the golf cart.

8. Golf carts shall not be used for the purpose of towing any person or object.

9. The possession of open containers of alcohol and/or consumption of alcohol by the operator and/or passengers of a golf cart is prohibited.

10. Golf carts shall be operated at the righthand edge of the roadway and must yield to all motor vehicle and pedestrian traffic.

11. Golf carts shall not be operated on the shoulder of any public street, road, or highway, or upon any sidewalk, multi-use pedestrian path, or other similar area of the town.

12. Golf carts shall not be operated upon any public street, road, or highway the town by any person who is not a valid operator.

13. Golf carts shall not be operated upon any public street, road, or highway without a valid permit.

14. Golf carts shall not be operated upon any public street, road or highway without all of the safety equipment required by this article being duly installed and operational.

15. Golf carts shall not be operated between one half hour before sunset and one half hour after sunrise without displaying functioning headlights and taillights.

(d) The operation of golf carts is not subject to the provisions of this section under the following circumstances:

a. The operation is at a golf course, private club, or on private property and with the consent of the owner/operator of the applicable real property.

b. The operation is in connection with a parade, a festival, or other special event provided the consent of the sponsor and authorization of the town police chief is obtained and provided such golf cart is only used during and in connection with such event.

c. The use of the golf cart is by the Manteo Police Department while on official police business or by town officials, staff, contractors, or volunteers while on official town business.

Sec. 46-153. – Registration, Required Equipment and Fees.

(a) In order to obtain a permit for operation of a road legal golf cart, the golf cart must be registered with and inspected by the town's police chief or his designee pursuant to reasonable procedures adopted by the town. The owner of the golf cart must apply for a permit and provide proof of ownership and proof of that they are financially responsible for the operation of the golf cart.

(b) Upon registration, passing of inspection and payment of fees, a permit shall be issued for a road legal golf cart. The permit shall be valid for a year from the date of issuance. The golf cart must be re-registered and re-inspected and new fees must be paid each year in order to be operated after the expiration of a permit. Permits must be displayed at all times upon the road legal golf cart. Permits are not transferrable from one golf cart to another. Lost or stolen permits are the responsibility of the owner or permit holder.

(c) All road legal golf carts shall have at least the following minimum safety features installed and operating correctly at the time of its inspection:

a. Two front headlights, visible from a distance of at least 250 feet;

b. Two taillights, with brake lights and turn signals, visible from a distance of at least 250 feet;

c. A rear vision mirror;

d. At least 1 reflector per side;

e. A parking brake;

f. Seat belts for all seating positions;

g. A windshield; and

h. No more than 3 rows of seats.

(d) The town fee schedule shall include a reasonable fee, not less than $25.00, in order to cover the costs of registration, inspection and permitting of road legal golf carts. Upon the second failure of an inspection, the fee must be paid again to have a subsequent inspection performed.

Sec. 46-154. – Impermissible Vehicles.

This article only permits the use of golf carts within the town. All-terrain vehicles, 4-wheel utility vehicles, go-karts, similar utility vehicles, and golf

carts that are modified so that they no longer meet the statutory definition of golf cart may not be operated on the public roads, streets, and highways of the town, unless such vehicles are otherwise registered and permitted under the motor vehicle laws of North Carolina.

Sec. 46-155. – Violations and Enforcement.

In addition to or in lieu of any remedies or penalties available under North Carolina law for the unlawful operation of golf carts as motor vehicles, the town may consider the same as a violation of a provision of this article. Any person violating any provision of this article shall be subject to a civil penalty in the amount of $50.00 for a first offense and up to $500 for subsequent offenses. Any person violating the town's parking ordinances with a golf cart shall be subject to the penalties applicable to parking violations for motor vehicles.

Sec. 46-156. – Limitations on Town Liability.

The town shall in no way be liable for personal injuries, property damage or deaths involving or resulting from the operation of a golf cart within the town's jurisdiction. Any person who owns, operates, or rides on a golf cart on a public street, road, or highway or upon town owned or leased parking lots within the town does so at his or her own risk and peril and assumes all liability resulting from their actions in relation to the operation of the golf cart.

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Manteo, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____day of _____, 20____.

_____
Bobby Owens, Mayor

ATTEST:

_____
Jamie Whitley, Town Clerk

Date adopted: _____

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS

AN ORDINANCE TO AMEND SECTIONS 70.01 AND 70.04 OF THE CODE OF ORDINANCES TO CLARIFY AND REVISE PROVISIONS REGULATING THE OPERATION OF GOLF CARTS ON PUBLIC STREETS WITHIN THE TOWN OF DUCK, NORTH CAROLINA

Ordinance No. 18-04

WHEREAS, previously the Town enacted Ordinance 18-03 to regulate the operation of golf carts on public streets within the Town; and

WHEREAS, subsequent to the adoption of Ordinance 18-03, it was determined that certain provisions of the Ordinance needed to be clarified and revised.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Duck Town Council of the Town of Duck, North Carolina, as follows:

1. Section 70.01 of the Duck Code of Ordinances is hereby amended and restated in its entirety as follows (with additions and deletions indicated):

§70.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CENTRAL VILLAGE COMMERCIAL AREA. The area of the town adjacent to the east and west side of NC 12, generally between 1174 Duck Road and 1264 Duck Road, where the paved roadway section includes a 4 to 7 foot wide shoulder, which is directly contiguous to the vehicular travel lanes of NC 12, that is designed for use by pedestrians, bicyclists, and other human powered devices.

ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE. A self-balancing non-tandem two-wheeled device, designed to transport 1 person, with a propulsion system that limits maximum speed of the device to 15 mph or less and which are exempt from registration pursuant to G.S. § 20-51(14).

GOLF CART. A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. The definition is republished here for convenience only and the definition set out in G.S. ' 20-4.01, as amended from time to time, is controlling for all purposes.

MOTORIZED VEHICLES. Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, which term shall include golf carts but shall not include mopeds or electric assisted bicycles.

MULTI-USE PEDESTRIAN PATH. A concrete or asphalt path that is at least 8 feet in width, situated adjacent to NC 12 but not contiguous with the roadway, that is constructed for the use of pedestrians, bicyclists, electric personal assistive mobility devices, and other non-motorized vehicles.

2. Section 70.04 of the Duck Code of Ordinances is hereby amended and restated in its entirety as follows (with additions and deletions indicated):

§70.04 GOLF CARTS.

(A) *Purpose.* The purpose of this Section 70.04 is to provide a means of travel that is convenient, conserves resources, and protects the environment. Golf carts (defined in Section 70.01), if properly used, may be an effective way to travel for short distances within the Town. However, to help ensure the public safety and welfare, the operation of golf carts must not only comply with normal regulations regarding motor vehicles, but shall also comply with the provisions of this Section 70.04. This Section 70.04 establishes the basic, minimum standards of care to be used by the users of golf carts and on public roads, streets, and highways and their respective shoulders. This Section 70.04 also prohibits the use of golf carts on sidewalks, multi-use pedestrian paths, and similar areas of the Town.

(B) *Disclaimer.* Golf carts might not be designed or manufactured to be used on public streets, and the Town neither advocates nor endorses the golf cart as a safe means of travel on public streets, roads and highways. The Town shall in no way be liable for accidents, injuries or deaths involving or resulting from the operation of a golf cart.

(C) *Assumption of Risk.* Any person who owns, operates, or rides on a golf cart on a public street, road, or highway within the Town does so at his or her own risk and peril and assumes all liability resulting from the operation of the golf cart.

(D) *Operation of Golf Carts.*

(1) Permitted Operation on Public Streets, Roads, and Highways.

(a) *Operation on NC Highway 12 Prohibited.* The operation of golf carts on NC Highway 12 shall be prohibited; provided, however, a golf cart may cross NC Highway 12 at a right angle when driving from a street on one side of NC Highway 12 to a street that is directly opposite and on the other side of NC Highway 12.

(b) *Operation on All Other Public Streets Permitted.* Except as to NC Highway 12 as provided in subsection (a) of this subsection, the operation of golf carts on all public streets, roads, and highways within the Town (i.e. streets, roads and highways maintained by the State or by the Town), where the posted speed limit is 35 miles per hour or less, shall be permitted; provided, however, it shall be

prohibited to operate a golf cart in a manner that is inconsistent with applicable laws and the provisions of this Chapter 70 of the Duck Code of Ordinances.

(c) *No Regulation of Golf Carts on Private Streets.* The Town does not have the statutory authority to regulate the operation of golf carts on streets and roads within the Town which are private, i.e. those streets and roads which are not maintained by the State or by the Town.

(2) Suggested Equipment.

(a) It is recommended that any golf cart authorized by this Section 70.04 to operate on the public streets, roads and highways of the Town should have the following safety features installed:

(i) Two operating front headlights, visible from a distance of at least 250 feet;

(ii) Two operating tail lights, with brake lights and turn signals, visible from a distance of at least 250 feet;

(iii) A rear vision mirror;

(iv) At least one reflector per side;

(v) A parking brake;

(vi) Seat belts for all seating positions on the golf cart;

(vii) A windshield; and

(viii) No more than three rows of seats.

(3) Restrictions. The use of a golf cart is prohibited within the Town unless the following requirements are met:

(a) The driver and passengers must be properly seated while the golf cart is in motion, and may not be transported in a negligent manner. The seating capacity, as determined by the number of seats, shall not be exceeded.

(b) No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions. No golf cart may be operated at a speed greater than 20 miles per hour.

(c) No golf cart may be operated in a careless or reckless manner.

(d) Golf carts must be operated in accordance with all applicable state and local traffic laws and ordinances, including all laws, regulations and ordinances pertaining to the possession and consumption of alcoholic beverages.

(e) Golf carts are subject to the same parking regulations as traditional motor vehicles, and may only be parked in the same manner and in the same places designated for the parking of traditional motor vehicles; provided however, two golf carts may be parked in a parking space that is designed for the parking of one traditional motor vehicle.

(f) Golf carts may only park in handicapped spaces if the driver has a valid handicapped placard or sticker and the same is clearly posted or displayed on the golf cart.

(g) Golf carts may not be used for the purpose of towing any person or object.

(h) The possession of open containers of alcohol and/or consumption of alcohol by the driver and/or passengers of a golf cart is prohibited.

(i) The operator of a golf cart shall yield the right of way to traditional motor vehicles.

(4) Prohibitions. No golf cart may be:

(a) Operated on the shoulder of any public street, road, or highway or upon any sidewalk, multi-use pedestrian path, or other similar area of the Town; or

(b) Operated within the Town by any person who is less than 16 years of age.

(5) Disqualified vehicles. This Section 70.04 only permits the use of golf carts within the Town. All-terrain vehicles, 4-wheel utility vehicles, go-karts, similar utility vehicles, and golf carts that are modified so that they no longer meet the definition of golf cart may not be operated on the public roads, streets and highways of the Town, unless such vehicles are otherwise registered and permitted under the motor vehicle laws of North Carolina. This subsection does not apply to the Town Police Department, Fire Department, Ocean Rescue or other Town staff or Town contractors using otherwise disqualified vehicles for official Town business.

(6) Exceptions. The operation of golf carts is not subject to the provisions of this Section 70.04 under the following circumstances:

(a) The operation is at a golf course, private club, or on private property and with the consent of the owner/operator of the applicable real property; or

(b) The operation is in connection with a parade, a festival or other special event provided the consent of the sponsor is obtained and provided such golf cart is only used during and in connection with such event; or

(c) The use of the golf cart is by the Duck Police Department while on official police business or by Town staff, contractors, or volunteers while on official Town business.

(E) *Violation.*

(1) Any person violating the motor vehicle laws of North Carolina, which shall also apply to golf carts operated within the Town, shall be subject to the penalties prescribed in North Carolina law for said violation.

(2) Any person who knowingly allows an underage driver to operate a golf cart may be charged and subject to the penalties prescribed in North Carolina law for contributing to the delinquency of a minor.

(3) Any person violating the provisions of this chapter or failing to comply with any of its requirements shall be required to pay a civil violation in the amount of $25.00.

(4) Any person violating the Town's parking ordinances shall be subject to the penalties applicable to parking violations.

(5) Operating a golf cart while under the influence of an impairing substance (such as alcohol or drugs) on a public street or road is a violation of North Carolina law, and is punishable as provided therein.

3. It is the intention of the Duck Town Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances for the Town of Duck and to accomplish such intention, sections of this Ordinance may be renumbered, captions added, sections retitled, section references corrected and repealed provisions deleted.

Adopted and made effective on this the 4th day of April, 2018.

Mayor

Attest:

Town Clerk