

**RESOLUTION 15-17**  
**RESOLUTION INTRODUCING AMENDMENTS TO CHAPTER 30 OF**  
**THE ORDINANCES OF THE TOWN OF HOLDEN BEACH**  
**PROVIDING FOR CERTAIN PROCEDURAL REFORMS WITH RESPECT TO**  
**TOWN GOVERNMENT AND OFFICIALS**

WHEREAS, pursuant to the Town's ordinances and pursuant to North Carolina G.S. §160A and other applicable provisions of North Carolina law, the Board of Commissioners is authorized to adopt amendments to the Town's ordinances with respect to Town Government and Officials;

WHEREAS, the Board of Commissioners has found that it would further the objectives of greater transparency, accountability and inclusiveness to adopt certain amendments to the procedural provisions of Chapter 30 – Town Government and Officials relating to: creation of an Executive Secretary for the Board of Commissioners; establishing a normal term of one year for the offices of Mayor Pro Tempore and Executive Secretary; more clearly defining qualifications for service on various boards, committees and authorities appointed by the Board of Commissioners; clarifying the requirements with respect to maintaining records of meetings and actions by the various boards, committees and authorities appointed by the Board of Commissioners and the publication thereof and public access thereto; establishing an Audit Committee of the Board of Commissioners; clarifying the requirements for the hiring of consultants and other third party service providers by the Town; together with related procedural matters;

NOW, THEREFORE, BE IT RESOLVED, that amendments to Chapter 30 of the Town's ordinances in the forms attached as Exhibit A, Exhibit B, Exhibit C, Exhibit D and Exhibit E are each hereby introduced at this meeting; and

NOW, THEREFORE, BE IT RESOLVED, that each such amendment shall be separately voted upon for adoption by the Board of Commissioners at its next regular meeting or at any special meeting called for that purpose.

This the 8<sup>th</sup> day of December, 2015.

\_\_\_\_\_  
J. Alan Holden, Mayor

ATTEST:

\_\_\_\_\_  
Heather Finnell, Town Clerk

# EXHIBIT A

## PROPOSED AMENDMENT TO THE ORDINANCES OF THE TOWN OF HOLDEN BEACH RELATING TO THE MAYOR PRO TEMPORE AND THE EXECUTIVE SECRETARY

*SECTION 30.05 OF THE ORDINANCES OF THE TOWN OF HOLDEN BEACH IS HEREBY AMENDED TO READ IN ITS ENTIRETY AS FOLLOWS:*

### **§ 30.05 MAYOR PRO TEMPORE AND EXECUTIVE SECRETARY**

The BOC shall elect from one of its members: (1) a Mayor Pro Tempore, and (2) an Executive Secretary, who shall not be the same member. The normal term of office of both the Mayor Pro Tempore and the Executive Secretary shall be one year, commencing at the first regular meeting in December; provide, however that each shall serve at the pleasure of the BOC.

The Mayor Pro Tempore shall discharge the duties and exercise the powers and authority of Mayor in the absence, disability, disqualification of the Mayor and during a vacancy in the office of Mayor; provided his or her rights and duties as BOC shall remain unimpaired; except he or she shall receive the salary or expense of Mayor when serving in that capacity. No additional oath of office shall be required of the Mayor Pro Tempore upon assuming the duties of the Mayor beyond that oath taken at the time of appointment to Mayor Pro Tempore.

The Executive Secretary shall be responsible for: (1) creating the agenda for each regular and special meeting of the BOC, and (2) assembling all supporting agenda package materials, in consultation with the other members of the BOC and the Town Manager and Town Attorney, as applicable. The Executive Secretary shall timely deliver the same to the Town Clerk for copying, delivery and publication in accordance with these ordinances and the Rules of Procedure provided for herein. The Town Clerk and Town Manager shall provide logistical and advisory support to the Executive Secretary in performing these functions and the Town Attorney shall provide legal interpretation or support as requested by the Executive Secretary. No notice of any regular or special meeting of the BOC, nor any agenda or agenda package materials with respect thereto shall be delivered or published by the Town Clerk without the express prior authorization of the Executive Secretary.

## **EXHIBIT B**

### **PROPOSED AMENDMENT TO THE ORDINANCES OF THE TOWN OF HOLDEN BEACH RELATING TO OFFICIAL RECORDS OF PROCEEDINGS**

*SECTION 30.17 OF THE ORDINANCES OF THE TOWN OF HOLDEN BEACH IS HEREBY AMENDED TO READ IN ITS ENTIRETY AS FOLLOWS:*

#### **§ 30.17 OFFICIAL RECORD OF PROCEEDINGS REQUIRED.**

The BOC and all committees and sub-committees thereof, and each of the various commissions, boards, agencies and authorities of the town appointed by or under delegation of the authority of the BOC, and all committees and sub-committees thereof shall (1) make and keep a correct, complete and accurate record of their respective acts and doings, including written communications on which such bodies are required to act, and (2) make and keep an audio or audio-video recording of all public and executive meetings. A copy of the minutes of all meetings of the BOC and of the various commissions, boards, agencies and authorities of the town, together in each case with all agendas, agenda packages and materials presented at such meetings, shall be furnished to the Town Clerk and the Mayor and BOC within a time specified by each body's by-laws approved by the BOC. The town shall maintain all such agendas, agenda packages and other materials, all such minutes, and all such audio and audio-video recording permanently as public records of the town available to the public in accordance with applicable provisions of North Carolina law. Commencing January 1, 2016, the Town Clerk shall cause all agenda, agenda packages, materials, and recordings, except only for any portions thereof that constitute non-public records, to be published and made available on the website of the town.

## EXHIBIT C

### PROPOSED AMENDMENT TO THE ORDINANCES OF THE TOWN OF HOLDEN BEACH RELATING TO COMMISSIONS, BOARDS, AGENCIES AND AUTHORITIES ESTABLISHED BY ORDINANCE OR UNDER THE AUTHORITY OF THE BOC

*CHAPTER 30 OF THE ORDINANCES OF THE TOWN OF HOLDEN BEACH IS HEREBY AMENDED TO ADD THE FOLLOWING § 30.25 TO THAT CHAPTER:*

#### **§ 30.25 COMMISSIONS, BOARDS, AGENCIES AND AUTHORITIES ESTABLISHED BY ORDINANCE OR UNDER THE AUTHORITY OF THE BOC.**

Except as otherwise expressly provided for in these ordinances: (1) no person shall be appointed or elected by the BOC, or pursuant to any authority delegated by the BOC, as a voting or non-voting member or officer or other official of any commission, board, agency, authority or other similar group or body established by ordinance or otherwise under the authority of the BOC (other than committees and sub-committees of the BOC that are comprised only of members of the BOC or the Audit Committee of the BOC) who is member of the BOC; the Town Manager, Town Attorney, Town Clerk, Police Chief or any full or part-time employee of the town who reports to any of the forgoing; a contractor, consultant or other person providing good or services to the town in consideration of cash or other thing valued at more than \$1,000 in any one year or an officer or material owner thereof; or the spouse, domestic partner, child, parent or sibling of any of the forgoing; (2) no such person, once so appointed or elected, shall remain a member, officer or other official thereof, if such person is or subsequent to his or her appointment or election becomes any of the forgoing; and (3) all persons so elected or appointed shall be either residents of the town or owners of residential property located within the town.

In addition, without limiting the forgoing and notwithstanding any other provisions of these regulations to the contrary, none of the Town Manager, any employee of the town reporting to the Town Manager, the Town Clerk or the Town Attorney shall serve or function as the chairperson, vice chairperson, secretary or any similar capacity of (1) any commission, board, agency, authority or other similar group or body established by ordinance or otherwise under the authority of the BOC, or (2) any committee, working group or similar group thereof; provided, however that this shall not prevent any such persons from providing logistical and advisory support to such commission, board, agency, authority or other similar group or body or any committee, working group or similar group thereof, and such support shall be provided at the request of the chairperson or secretary thereof.

In addition, without limiting the forgoing and notwithstanding any other provisions of these regulations to the contrary: (1) no person shall be appointed or elected by the BOC as a voting or non-voting member or officer or other official of the Board of Adjustment; and (2) no such person, once so appointed or elected, shall remain a member, officer or other official thereof if such person is or subsequent to his or her appointment or election becomes: (A) a licensed real estate agent or an officer, owner or management employee of any licensed real estate agency doing any material business in the town; (B) a licensed construction or construction trades contractor or an officer, owner or management employee of any licensed construction or construction trades contractor company doing any material business in the town; or (C) the spouse, domestic partner, child, parent or sibling of any of the forgoing.

## **EXHIBIT D**

### **PROPOSED AMENDMENT TO THE ORDINANCES OF THE TOWN OF HOLDEN BEACH PROVIDING FOR THE ESTABLISHMENT OF AN AUDIT COMMITTEE OF THE BOARD OF COMMISSIONERS**

*CHAPTER 30 OF THE ORDINANCES OF THE TOWN OF HOLDEN BEACH IS HEREBY AMENDED BY ADDING THE FOLLOWING § 30.26 TO THAT CHAPTER:*

#### **§ 30.26 AUDIT COMMITTEE OF THE BOC**

There is hereby established an Audit Committee of the BOC, which shall be comprised of: a Chairman of the BOC Audit Committee, who shall be a member of the Board of Commissioners; and not fewer than two nor more than four Public Members, as determine by the BOC at the first regular meeting in January. The Chairman of the BOC Audit Committee and each of the Public Members shall have a normal term of one year, and all shall serve at the pleasure of the BOC. The Chairman of the BOC Audit Committee shall be elected by the BOC at the first regular meeting in January. The Public Members shall be appointed by the Chairman of the BOC Audit Committee, subject to confirmation by the BOC.

The functions of the BOC Audit Committee shall be: (1) to assist and advise the BOC in its oversight responsibilities for the town's: financial reporting process, system of internal controls over financial reporting and the external audit process; (2) to assist and advise the BOC in its responsibilities for performance management and evaluation of the Town Manager and town employees reporting to the Town Manager; (3) in consultation with the Town Manager, Town Attorney and Town Clerk, monitor, report to and advise the BOC with respect to the town's compliance with these ordinances and with other applicable laws and regulations, including, without limitation, reviewing and monitoring compliance with the town's policies, procedures and training programs relating to open meetings and public records; (4) in consultation with the Town Manager and Town Attorney, monitor and report to and advise the BOC with respect to all litigation or threats of litigation affecting the town; (5) in consultation with the Town Manager and Town Attorney review, advise and make recommendations to the BOC with respect to the town's risk management policies and procedures, including without limitation, the town's insurance and self-insurance policies; (6) in consultation with the Town Attorney, conduct such investigation or hearings with respect to any of the forgoing as the BOC shall from time-to-time direct; and (7) such other related functions as shall be delegated or assigned to it by the BOC from time-to-time.

Not later than the first regular meeting in February 2016, the BOC Audit Committee shall adopt, and present to the BOC for confirmation or modification, By-Laws setting forth such other policies and procedures as it shall deem necessary or appropriate to carry out its function. Such By-Laws may be amended by the BOC, subject to confirmation or modification by the BOC.

## **EXHIBIT E**

### **PROPOSED AMENDMENT TO THE ORDINANCES OF THE TOWN OF HOLDEN BEACH RELATING TO HIRING OR ENGAGEMENT OF LAWYERS, CONSULTANTS AND OTHER SIMILAR THIRD PARTY SERVICE PROVIDERS**

*CHAPTER 30 OF THE ORDINANCES OF THE TOWN OF HOLDEN BEACH IS HEREBY AMENDED TO ADD THE FOLLOWING § 30.27 TO THAT CHAPTER:*

#### **§ 30.27 HIRING OR ENGAGEMENT OF LAWYERS, CONSULTANTS AND OTHER SIMILAR THIRD PARTY SERVICE PROVIDERS.**

The town shall not hire, engage, enter into any engagement with or otherwise make payment or incur payment obligations to any lawyer or law firm (other than the Town Attorney providing services pursuant to his or her engagement agreement with the town), unless the BOC expressly approves such hiring, engagement, payment or obligation by resolution based upon review and recommendation by the Town Attorney. In addition the Town Attorney shall not undertake the representation of the town in any legal proceeding or transactional matter not expressly identified in that engagement agreement, unless expressly approved by resolution of the BOC.

The town shall not hire, engage, enter into any engagement with or otherwise make payment or incur payment obligations to any consultant or other similar third party service provider, unless the BOC expressly approves such hiring, engagement, payment or obligation by resolution based upon review and recommendation by the Town Attorney. Without limiting the foregoing, the appropriation of funds for such hiring, engagement, payment or incurrence of payment obligation shall not constitute approval for this purpose unless the budget identifies the consultant or other similar third party service provider and specifies the nature and scope of the services to be provided.

The town shall not submit any application for any permit or funding grant relating to the expenditure, purchase or incurrence of any obligation by the town of more than five thousand dollars in the aggregate, unless the BOC expressly approves such submission and the terms and conditions of such application or permit.