

## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** April 5, 2022  
**Case:** ZTA-22-03  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

### GENERAL INFORMATION

**Applicant:** Town of Southern Shores

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-175, Wireless Telecommunications Sites, Facilities and Towers

### ANALYSIS

The proposed amendments to Sections 36-175 are being proposed by Town Staff to prevent the installation of utility facilities and structures above the ground. In March, 2018, ZTA-18-02 was adopted which amended Town Code Section 36-175 to allow small wireless facilities and the use and installation of utility poles in accordance with Session Law 2017-159. Session Law 2017-159 declared that wireless services providers and wireless infrastructure providers must have access to the public rights-of-way and have the ability to attach to poles and structures in the public rights-of-way to densify their networks. It amended existing Statutes to include small cell infrastructure and wireless support structures to ensure that wireless providers have access to public rights-of-way. Recently, Town Staff learned that other jurisdictions have been prohibiting the installation of new utility poles for small wireless facilities in Town rights-of-way by adding them to undergrounding requirements (see enclosed TCA-22-03). N.C.G.S. 160D-936(d) allows the prohibition as long as the undergrounding requirements are nondiscriminatory with respect to type of utility, do not prohibit the replacement of structures existing at the time of adoption of the requirements, and have a waiver process.

### RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously recommended approval of the application at the March 21, 2022 Planning Board meeting.