

ORDINANCE NO. 2010-_____

AN ORDINANCE OF THE VILLAGE OF BALD HEAD ISLAND, NORTH CAROLINA AMENDING AND RECODIFYING CHAPTER 28 OF THE VILLAGE OF BALD HEAD ISLAND ORDINANCES: TRAFFIC AND VEHICLES

WHEREAS, the Village Council of the Village of Bald Head Island, North Carolina (“Village”) deems it necessary in the interest of public safety to amend and recodify Chapter 28 of the Village of Bald Head Island Ordinances to address issues including but not limited to updated definitions, personal electric vehicles, ages of operation, licenses and safety helmets.

NOW, THEREFORE, BE IT ORDAINED, BY THE VILLAGE OF BALD HEAD ISLAND, NORTH CAROLINA:

Chapter 28: TRAFFIC AND VEHICLES is hereby amended and restated to read:

ARTICLE I. IN GENERAL

Section 28-1. Definitions.

The following words, terms and phrases, when used in the Chapter shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning or the term is specifically defined otherwise regarding a particular Division or Section:

Arrival and Departure Transportation Vehicle means and refers to any Vehicle Powered by Internal Combustion Engine used by the owner thereof to deliver persons or property from island Terminals to their destination within the Village and to return the persons or property to island Terminals, but only during such time that the Vehicle shall be engaged in the transportation of persons or property to and from the Terminal and their destination within the Village, subsequent to arrival at or immediately preceding departure from the Village.

Assessment Notice means and refers to that notice advising the owner that such Vehicle has caused Specific Damage and advising the owner of the following:

- (1) The identity of the Vehicle causing Specific Damage;
- (2) The date of the damage;
- (3) The Street damaged;
- (4) The Repair Costs; and
- (5) The fact that the owner is being assessed the Repair Costs of such Specific Damage.

Auxiliary Power Unit means a mechanical or electrical device affixed to a Vehicle that is designed to be used to generate an alternative source of power for any of the Vehicle's systems other than the primary propulsion engine.

Beaches means and refers to foreshore, beach strand and barrier dune system.

Bicycle means and refers to a Vehicle with two wheels in tandem designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. This term also includes a Vehicle, designed to transport by the action of pedaling, which has more than two wheels where the Vehicle is used on a public Street, Public Bicycle Path, or other public right-of-way, but does not include a Tricycle. This term refers to both Electric and Human-powered bicycles unless specifically stated.

Bicycle Operator means and refers to a person who travels on a Bicycle seated on a saddle seat from which that person is intended to and can pedal the Bicycle.

Bicycle Passenger means and refers to a person who travels on a Bicycle in any manner except as an operator.

Chief means and refers to the Chief of the Department or the individual within such Department designated to act on behalf of the Chief.

Commercial Fisherman means and refers to a licensed fisherman for commercial activities.

Congestion means a situation which occurs when the volume of traffic exceeds the capacity of a Street.

Construction Delivery Vehicle means and refers to any Vehicle Powered by Internal Combustion Engine and used to transport persons or unusually heavy or bulky material or property within the Village for purposes of delivering such persons, material or property to or from any site in order to facilitate in any manner the construction of new or unfurnished structures or the construction or creation of additions to previously existing structures or to facilitate in any manner the construction of other improvements to real property, but only during such time as the Vehicle shall be engaged in such purposes.

Construction Equipment Vehicle means and refers to any Vehicle Powered by Internal Combustion Engine used in construction to lift or transport material, to grade, excavate or move earth or other material, but only so long as such Vehicle is operating on the Streets of the Village.

Delivery, Repair or Maintenance Vehicle means and refers to any Vehicle Powered by Internal Combustion Engine and used to transport persons or unusually heavy or bulky materials or property within the Village for purposes of:

- (1) Delivery of such persons, property or material to or from any site in order to facilitate, in any manner, the repair or maintenance of improvements to real property or personal property located at such site; or
- (2) Delivery of appliances or other personal property to or from such site.

Delivery, Repair or Maintenance Vehicle shall also include any wrecker or other Vehicle used to tow or service any disabled Vehicle in order to repair such Vehicle or to deliver the disabled Vehicle to a site for repair.

Department means and refers to the Village Department of Public Safety or successor entity.

Electric indicates that the Vehicle derives its power solely or partially from electricity.

Electrically-powered Vehicle means and refers to any Motor Vehicle used in the transportation of person or property on the Streets of the Village, the propulsion of which is solely derived from the use of electricity.

Emergency means a situation that poses an immediate risk to health, life, property, or environment.

Emergency Vehicle means any Vehicle that responds to or supports an Emergency. These Vehicles are operated by parts of the government, charities, non-governmental organizations, and commercial companies.

Final Assessment means and refers to the amount assessed against an owner of any Vehicle causing Specific Damage, once such assessment becomes uncontestable, which shall be either the cost of repairs contained in the Assessment Notice if not contested by the owner or the cost of repairs as contained in the assessment established by the Village Manager after hearing.

Golf Cart means and refers to any Electrically-powered Vehicle having three (3) or more wheels and having similar characteristics to Vehicles typically used in transporting golfers between golf shots.

Gross Vehicle Weight ("GVW") means and refers to the maximum load capacity of the Vehicle suggested by the manufacturer, plus the unloaded weight of the Vehicle.

Gross Vehicle Weight Rating means the weight specified by the manufacturer as the loaded weight of a single Vehicle.

Heavy-duty Vehicle means a Motor Vehicle (excluding trailer(s)) with a Gross Vehicle Weight Rating of 10,001 pounds or greater.

Human-powered indicates that the Vehicle is solely powered by the human body.

Idling means the operation of a Motor Vehicle's propulsion engine while the vehicle is stationary, excluding Electrically-powered Vehicles.

Lawful Possessor means and refers to any person lawfully entitled to possess any Motor Vehicle towed or impounded pursuant to this Article, including the owner thereof or any lessee, guest, or other person entitled to operate any such Motor Vehicle pursuant to the express consent of the owner thereof.

Licensed Driver means and refers to any individual licensed to operate a Motor Vehicle on the Streets or highways of the state pursuant to G.S. 20-7 and shall also include those persons privileged to operate a Motor Vehicle on the Streets or highways of the state pursuant to G.S. 20-8(1) , 20-8(3), and 20-11(f)-(g), or who possesses a valid driver's license issued under another state or jurisdiction

Low-speed Vehicle means and refers to any Vehicle Powered by Internal Combustion Engine, the speed of which is mechanically governed by implement or device installed thereon which prevents the speed of such Vehicle from exceeding 25 miles per hour.

Military Vehicle means a Motor Vehicle owned by the U.S. Department of Defense.

Motor Vehicle means and refers to any self-propelled power-driven Vehicle, upon or by which any person or property may be transported on the Streets of the Village, the propulsion of which is derived from any means other than Human-power. When used in Article III of this Chapter 28, any Vehicle designated to run upon the Streets of the Village and which is pulled by a self-propelled Vehicle.

Officer means and refers to any duly sworn public safety officer employed or contracted by the Department.

On-road Vehicle means a Motor Vehicle that is designed for use on a Street.

Other Public Rights-of-way means and refers to any right-of-way other than a public Street or Public Bicycle Path that is under the jurisdiction and control of the Village and is designed for use and used by vehicular and/or pedestrian traffic.

Owner of a Vehicle Powered by Internal Combustion Engine, when relating to a Vehicle Powered by Internal Combustion Engine, means and refers to the owner of any Vehicle Powered by Internal Combustion Engine as shown on the application for a permit to operate such Vehicle on the Streets of the Village or, if none, on the registration records for such Vehicle as maintained by the State Division of Motor Vehicles.

Owner of an Electrically-powered Vehicle means and refers to that person holding title to or, if applicable, the person named as owner in the most recent registration with the Department, the lessee of the residence at which the Electrically-powered Vehicle is routinely kept or stored, or the named registered lessee of any Electrically-powered Vehicle.

Owner's Address means and refers to that mailing address of the owner of any Vehicle Powered by Internal Combustion Engine causing Specific Damage as shown on the application for the permit to operate such vehicle on the Streets of the Village or, if no such application exists, the address of the owner as indicated by the registration records for such Vehicle as maintained by the State Division of Motor Vehicles.

Passenger Bus means any bus, including vans, which is designed to carry ten or more passengers.

Personal Use means and refers to being used solely for the purpose of transportation. Vehicles used for commercial/business purposes will not be considered Personal Use Vehicles.

Petitioner means and refers to the owner or Lawful Possessor of any Motor Vehicle towed or impounded pursuant to this Article.

Power Take Off means a device used to transfer mechanical energy from a Heavy-duty Vehicle's propulsion to equipment that supplies mechanical, pneumatic, hydraulic, or electric power to non-vehicular mechanical, pneumatic, hydraulic, or electrically operated devices.

Protective Helmet means and refers to a piece of headgear that meets or exceeds the impact standards for Protective Helmets set by the American National Standards Institute (ANSI), the Snell Memorial Foundation, Consumer Product Safety Commission Standards, or ASTM bicycle helmet standards, as they may be amended from time to time. A Protective Helmet shall be appropriately fitted and shall include use of any straps designated to affix the helmet to the head, including chin or other straps that are snug to an appropriate fit.

Public Bicycle Path means and refers to a right-of-way under the jurisdiction and control of the Village for use primarily by bicycles and pedestrians.

Public Service Vehicle means and refers to any Vehicle Powered by Internal Combustion Engine which is operated by agents or employees of the Village including any Vehicle operated by a Village Public Safety Officer or agents thereof, so long as the Vehicle is being used in its intended capacity, and any Vehicle engaged in the collection or disposition of garbage, refuse or other debris or in any other activity on behalf of the Village but only at such time as the Vehicle is in fact engaged in such activity on behalf of the Village.

Queue Area means any area used by Heavy-duty Vehicles waiting to provide or receive services.

Repair Costs means and refers to the total cost to the Village to repair and return any damaged Street to its condition immediately prior to the act giving rise to the Specific Damage, including, without limitation, all costs of labor, materials and equipment used to effect such repairs.

Restraining Seat means and refers to a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle according to manufacturer's instructions and is adequately equipped to restrain the passenger in such seat as to protect such passenger from the moving parts of the bicycle. A Restraining Seat shall meet or exceed the standards set by the Consumer Product Safety Commission, as well as the standards set by 16 CFR 1501, 16 CFR 1500.48, 16 CFR 1500.49, and 16 CFR 1303, as they may be amended from time to time.

Scooter means and refers to a Vehicle consisting of a narrow footboard mounted between two wheels tandem with an upright steering handle attached to the front wheel. This term refers to both Electric and Human-powered Scooters unless specifically stated.

Segway means and refers to a self-balancing, non-tandem, two-wheeled device designed to transport one person [with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less].

Service Vehicle means and refers to a sanitation truck, public safety unit and conservancy unit.

Skateboard means and refers to a flat, short, narrow board mounted on four roller-skate wheels, ridden in a standing position. This term refers to both Electric and Human-powered Scooters unless specifically stated.

Specific Damage means and refers to any damage to the public Streets and rights-of-way of the Village caused by any Vehicle Powered by Internal Combustion Engine and is also specifically attributable to the operation of such Vehicle, but such damage shall exclude ordinary wear and tear on the Streets of the Village by the operation of such Vehicles on such Streets.

Street means and refers to any public or private right-of-way for vehicular traffic inclusive of the shoulders, rights-of-way line, unimproved portion and any improvements of any kind thereto, including any vegetation thereon.

Terminal means and refers to any point of embarkation or disembarkation to or from the Village for delivery by water of Vehicles, materials, or persons to the island.

Tricycle means and refers to a three-wheeled Vehicle, excluding a three-wheeled Golf Cart. This term refers to both Electric and Human-powered Tricycles, unless specifically stated.

Unattended Motor Vehicle means any Motor Vehicle located upon any Street of the Village and as to which no Lawful Possessor who is also a Licensed Driver thereof shall be immediately identifiable to any Officer investigating such Motor Vehicle.

Unlicensed Driver means and refers to an operator of an Electrically-powered Vehicle who is not authorized to operate a Motor Vehicle on the Streets or highways of the state pursuant to G.S. 20-7 or privileged to operate a Motor Vehicle on the Streets or highways of the state

pursuant to G.S. 20-8(1), 20-8(3), and 20-11(f)-(g), or who does not possess a valid driver's license issued under another state or jurisdiction.

Utility Vehicle means any Vehicle Powered by Internal Combustion Engine and owned or operated by any company or entity regulated by or subject to regulation by the State Public Utilities Commission or owned or operated by any cable television company holding a franchise within the Village but only so long as the Vehicle is being used in its intended capacity for such utility company or cable television company.

Vehicle means and refers to any device upon or by which any person or property may be transported on the Streets of the Village.

Vehicle Powered by Internal Combustion Engine means and refers to any Motor Vehicle, the propulsion of which is derived solely or partially from the combustion of fossil fuels, including but not limited to gasoline, diesel or natural gas fuels.

Vehicle Width ("Width") means and refers to the maximum dimension of the Vehicle parallel to the Vehicle axles.

Work Day means and refers to sunrise to sunset, Monday through Friday, excepting the following observed holidays: New Years' Day, Memorial Day, Independence Day, Thanksgiving Day and Christmas Day.

Section 28-2. Exemptions.

The operation of Electrically-powered Vehicles and Low-speed Vehicles within the Village is exempt from the following provisions of the North Carolina General Statutes: G.S. 20-50, G.S. 20-52, G.S. 20-57, G.S. 20-63, G.S. 20-115, G.S. 20-122.1, G.S. 20-123.2, G.S. 20-125, G.S. 20-125.1, G.S. 20-126, G.S. 20-127(b), G.S. 20-127(c), G.S. 20-128, G.S. 20-129, G.S. 20-131, G.S. 20-135.1, G.S. 20-135.2, G.S. 20-135.2(a), G.S. 20-135.3, G.S. 20-137.1, G.S. 20-183.2, G.S. 20-183.3, and G.S. 20-309.

Sections 28-3 – 28-30 reserved.

ARTICLE II. OPERATION OF VEHICLES

DIVISION 1. GENERALLY

Section 28-31. Stop signs.

(a) *Intersections.* When a stop sign has been erected or installed at an intersection within the municipal limits of the Village, it shall be unlawful for the driver of any Vehicle to fail to stop in obedience thereto and yield the right-of-way to Vehicles operating on the designated main traveled or through highway or Street.

(b) *Other sites.* When a stop sign has been erected or installed at a place other than an intersection, it shall be unlawful for the driver of any Vehicle to fail to stop in obedience thereto and yield the right-of-way to pedestrians or other Vehicles.

(c) *Penalties.* Any person who shall violate this section shall be responsible for an infraction and shall be required to pay a penalty in the amount of \$50.00 pursuant to G.S. 14-4(b).

Section 28-32. Speed limit.

(a) *Established.* It shall be unlawful to operate a Vehicle in excess of 18 miles per hour inside the Village corporate limits.

(b) *Signs.* There shall be erected upon all major Streets within the Village appropriate signs giving notice of the speed limit established in this section.

(c) *Penalties.*

(1) Violation of this section shall subject the offender to a civil penalty in the amount of \$50.00 for a first offense. A civil citation shall be issued by authorized Officers of the Village, on a form approved by the Village Manager. The citation form shall state that if the civil penalty is not paid in full within forty-eight (48) hours of issuance of the citation, it may be recovered in a civil action in the nature of debt.

(2) The second violation of this section within a 12-month period, by any person, shall be subject to a civil penalty in the amount of \$75.00. Third and subsequent violations of this section within a 12-month period, by any person, shall be subject to a civil penalty in the amount of \$100.00.

(3) In addition to any civil sanctions imposed in this section, the offender shall be subject to criminal charges for this infraction, punishable by imprisonment and/or fine not to exceed \$500.00.

Section 28-33. Driving motor vehicles on Beaches.

(a) *Prohibited.* It shall be unlawful for any person to drive a Motor Vehicle on the Beaches within the Village, except in the mission of the Bald Head Island Conservancy or an Emergency or Service Vehicle operating for benefit of the Village, or a licensed Commercial Fisherman.

(b) *Violation.* Any person who shall violate this section shall be responsible for an infraction and shall be required to pay a penalty in the amount of \$50.00 pursuant to G.S. 14-4(b).

(c) *Warning.* The public safety officer shall make every reasonable effort to warn a Motor Vehicle operator that appears to be destined for the beach before he or she reaches the dunes area and violates this section.

Sections 28-34 – 28-50 reserved.

DIVISION 2. VEHICLES POWERED BY INTERNAL COMBUSTION ENGINES

Section 28-51. Purpose.

The purpose and intent of this division is to subject every Vehicle Powered by Internal Combustion Engine on the Streets of the Village to the regulations, permit requirements and permit fees set forth in this division. The permit fees collected shall be placed in a capital reserve account to be used to protect the environment, maintain, repair and rebuild the Village Streets, maintain, repair, and rebuild rights-of-way, enhance personal safety and pay the costs of necessary registration, fee collection and enforcement of this division.

Section 28-52. Vehicles powered by internal combustion engines on certain streets.

(a) *Prohibited on certain Streets.* Except as provided in this section, it shall be unlawful for any person to operate any Vehicle Powered by Internal Combustion Engine on the Streets designated on Exhibit A attached to the Ordinance from which this section is derived and incorporated in this section by reference.

(b) *Exceptions.* It shall be lawful to operate a Vehicle Powered by Internal Combustion Engine on Stede Bonnet Wynd and Edward Teach Wynd if, and only if, operation of such Vehicle on such Street shall be necessary to deliver persons or property to any location accessible only by means of traveling over such Street.

(c) *Violation.* Violation of this section shall constitute an infraction and shall be punishable by a fine not in excess of \$50.00.

Section 28-53. Prohibited; exceptions.

No person shall operate any Vehicle Powered by Internal Combustion Engine on the Streets of the Village except for properly permitted Public Service Vehicles, Utility Vehicles, Arrival and Departure Transportation Vehicles, Construction Delivery Vehicles, Delivery, Repair or Maintenance Vehicles or Construction Equipment Vehicles and such Vehicles as shall be specifically permitted a set forth pursuant to Section 28-56 of this division.

Section 28-54. Permit required.

(a) *Filing of application.* The owner of any Public Service Vehicle, Utility Vehicle, Arrival and Departure Transportation Vehicle, Construction Delivery Vehicle, Delivery, Repair or Maintenance Vehicle or Construction Equipment Vehicle may apply to the Village, its

appointees or designees (hereinafter in Section 28-54 the “Village”) for a permit to operate the same on the Streets of the Village.

(b) *Permit requirements.* Permits shall be made available by the Village at such locations as the Village may from time to time determine upon receipt of such information, documentation and permit fees as the Village may from time to time determine. A permittee, upon application and at all times a permit is in effect, shall be required to maintain and may be required to provide proof of the following information:

- (1) Registration, title or other indicia of ownership of the Vehicle;
- (2) The make, model and year that the Vehicle was constructed;
- (3) Proof that the Vehicle is insured in amounts not less than those statutorily required for liability insurance;
- (4) The classification of permit (annual or daily);
- (5) Proposed use of the Vehicle, and
- (6) Any other information as may be required and determined by the Village from time to time.

(c) *Insurance and inspection.* Such permittee shall at all times have proof satisfactory to the Village that the vehicle is insured in amounts not less than those statutorily required for liability insurance under G.S. 20-279.1, *et seq.*, and that the Vehicle has passed inspection pursuant to G.S. 20-183.2 within 12 months of the date that such application is submitted.

(d) *Classification.* Upon receipt of such application for permit, the Village shall review the application and determine the classification of permit sought. If all requested information and documentations are properly submitted and if the Village determines that:

- (1) The proposed use of the Vehicle meets the definition of the Vehicle for which such permit is sought; and
- (2) The proposed use may only be met reasonably by use of a Vehicle Powered by Internal Combustion Engine; and
- (3) The application complies in all other respects with the aforesaid provisions;

Then the Village shall issue a permit for the classification requested.

(e) *Fees.* The permits issued pursuant to this section shall be issued by the Village upon payment of a permit fee based the criteria as determined by the Village from time to time and the classification of the permit requested, as set forth in the internal combustion engine (“ICE”) permit fee schedule, as adopted by the Village Council and amended from time to time.

(f) *Requests from persons applying for credit to charge for permits.* Any person may apply to the Village for credit to charge for permits issued pursuant to this section. Upon receiving a properly completed application for charge credit, the Village shall notify the applicant whether they may charge for permits issued pursuant to this section. The Village may grant or deny any application in the Village’s sole discretion. Applicant shall execute such documents as may be required for the Village to process any permit fee and/or penalty payments through any credit card or electronic banking account applicant may provide to the Village and without further authorization of applicant.

(g) *Internal combustion engine permits paid via charge account.* Any person that charges any internal combustion engine permit via a charge account approved by the Village shall, upon proper notification and request, pay the entire amount due as charged. This payment shall be made in full to the Village within a period of thirty (30) days from the date of issuance of such permit. Following this 30 day period, to any unpaid sums shall be added a late penalty of \$50 per any unpaid permit issued.

(h) *Revocation of charging privilege.* If any charge or credit becomes delinquent past 60 days, the Village may, at that time, suspend and/or revoke charging privileges for the person, firm or corporation.

(i) *Revocation of permit.* If full payment is not timely received or made, the Village may revoke and/or remove from the Vehicle any permit issued. If a permittee is unable or unwilling to comply with any of the provisions set forth in this Section, the Village in its sole discretion may revoke and/or remove from the Vehicle any permit issued.

Section 28-55. Special use permit.

(a) Notwithstanding any provision to the contrary contained in this division, it shall be lawful for persons to operate a Vehicle Powered by Internal Combustion Engine within the Village upon application for and receipt of a special use permit pursuant to this section. The party seeking such a permit shall apply to the Department therefor. The application shall contain all information required under Section 28-53 of this division and, in addition thereto, shall include the following:

- (1) The type and make of Vehicle proposed to be used;
- (2) The date of the proposed use of such Vehicle;
- (3) The proposed route of travel of the Vehicle;

- (4) The period during which such Vehicle shall be used and for which the permit is sought;
- (5) A certificate that provisions for overnight parking or temporary storage of the Vehicle have been made;
- (6) The purposes to be accomplished by the use of such Vehicle; and
- (7) Certification that the purposes set forth in subsection (a)(6) may be accomplished only by use of a Vehicle Powered by Internal Combustion Engine and the reasons therefor.

(b) Upon receipt of such application, the Chief shall review the application. If all the information, attachments and certificates required are contained therein, the Chief may issue a special use permit, upon the payment of the special use permit fee based on the Width and weight of such Vehicle in amounts equal to those referenced in Section 28-54. Such special use permit shall be limited with regard to the route of travel of such Vehicle, the date and times during which such vehicular travel shall be allowed, and may further be subject to such restrictions and conditions as the Chief shall deem reasonably necessary to safeguard the public safety and property. Such special use permit shall be valid for the number of days and overnight stays which the Chief shall deem reasonably necessary to accomplish the purpose set forth in the application therefor upon payment of the daily permit fee for each overnight stay.

Section 28-56. Time of operation.

(a) It shall be unlawful for any person to operate any Construction Delivery Vehicle or Construction Equipment Vehicle upon the Street of the Village at any time other than during Work Days.

(b) Notwithstanding anything to the contrary contained in this division, any person or company under contract to pave rights-of-way shall, upon approval of the Village Manager, be permitted to operate Construction Delivery Vehicles or Construction Equipment Vehicles from sunrise to sunset on non-Work Days, so long as such Vehicle is being used within the scope of and in the course of work to be accomplished under the contract and within the constraints and/or conditions defined by the Village Manager.

Section 28-57. Parking or temporary storage of vehicle.

No permit for the operation of a Vehicle Powered by Internal Combustion Engine shall be issued by the Village without certification by the owner thereof, supported by proof satisfactory to the Chief, that the owner thereof has made satisfactory arrangements for the parking or temporary storage of the Vehicle on lands other than:

- (1) Village Streets or rights-of-way;

- (2) Individual lots or multifamily sites zoned for residential purposes pursuant to Chapter 32 of this Code.

The Chief shall have the authority, in what the Chief determines are unusual circumstances, to authorize parking arrangements contrary to the provisions of this section. Any permit issued pursuant to this division shall be effective only for so long as such parking or storage rights shall remain, and such permit shall be deemed revoked at such time as the rights of parking or storage shall be revoked by the person granting such right, until parking privileges shall be reacquired.

Section 28-58. Unlawful operation of vehicles.

It shall be unlawful for any person to operate any Motor Vehicle upon the Streets of the Village in violation of the terms and conditions of any permit issued for the operation thereof or in violation of any provision of this division. Golf course maintenance, repair and construction equipment owned by or under lease to the Bald Head Island Club shall be exempt and not subject to the provisions of this division or the fees imposed thereby if they only use Village Streets to cross from one portion of golf course property to another.

Section 28-59. Liability of owner.

(a) Any applicant for any permit to operate a Vehicle Powered by Internal Combustion Engine on the Streets of the Village shall be deemed to be the agent of the Owner of such Vehicle for the purposes of this division.

(b) Any individual applying for a permit to operate a Vehicle Powered by Internal Combustion Engine upon the Streets of the Village shall be deemed to have agreed on behalf of the Owner thereof to, and the Owner of any Vehicle Powered by Internal Combustion Engine which causes Specific Damage shall, indemnify the Village from any Specific Damage done to the Streets of the Village by such Vehicle so permitted or owned. Further, every application for any permit to operate a Vehicle Powered by Internal Combustion Engine within the Village shall include a written agreement by the applicant as agent of the Owner thereof to indemnify and fully hold harmless the Village from any Specific Damage to the Streets thereof occasioned by the operation of the Vehicles so permitted.

(c) Upon identification of any Specific Damage occasioned to the Streets of the Village by the operation of any Vehicle Powered by Internal Combustion Engine, the Village manager or his designee shall undertake the repair and restoration of such Street to its condition immediately before such damage and shall identify the Repair Costs thereof, which shall then be assessed against the Owner of the Vehicle causing such damage. Upon identification of such Repair Costs, the Village Manager shall cause to be issued to the Owner of such Vehicle at the Owner's Address by first class mail, postage prepaid and affixed thereto, an Assessment Notice. Such notice shall include notification that the Village intends to seek collection of the Repair Costs from the Owner thereof and that the Owner shall have a period of ten (10) Working Days from the date of issuance of such notice in which to notify the Village Manager in writing if such liability is contested in any manner. If not contested by the Owner, the Assessment Notice shall

become the Final Assessment. If the Owner of such Vehicle shall contest any aspect of the Assessment Notice, the Owner shall do so in writing delivered to the Village Manager within ten (10) days of the date of the Assessment Notice and the Village Manager shall then schedule a hearing to be conducted not less than ten (10) Working Days after receipt of the notice of objection. At such hearing, the Owner shall be heard as to his objection and shall have full opportunity to present any objections to such assessment, together with any evidence in support thereof. The Manager shall then decide all issues contested by the Owner. The Village Manager's decision with regard to all issues contested by the owner, including but not limited to the liability of such Owner for Repair Costs and amount thereof, shall be final. The Village Manager shall notify the Owner of the decision by the Manager and shall deliver written notice of the decision to the Owner at the Owner's Address by placing such notice in the United States mail with first-class postage, prepaid and affixed thereto within four (4) Working Days of the hearing. Such notice shall then become the Final Assessment. The Owner shall have fifteen (15) Working Days from the date of mailing of the Final Assessment in which to pay the assessment.

(d) If the Owner shall not pay the Final Assessment within fifteen (15) Working Days of the date when the assessment becomes final as set forth in subsection (b) of this section, any permit for operation of the Vehicle upon the Streets of the Village shall be revoked and no permit shall be issued thereafter to operate such Vehicle on the Streets of the Village until such time as the assessment herein shall have been paid in full. Additionally, the Village may seek collection of the assessment through any civil process for the collection of any civil litigation.

Section 28-60. Violation and penalty.

Any person who shall violate this division shall be responsible for any infraction and shall be required to pay a penalty in the amount of \$50.00 pursuant to G.S. 14-4(b).

Section 28-61. Heavy-duty vehicle idling restrictions.

(a) *Applicability.* The requirements of this section apply to On-road Heavy-duty Vehicles Powered by an Internal Combustion Engine.

(b) Exemptions. The following exemptions to Idle restriction apply to this section:

- (1) Heavy-Duty Vehicles may Idle if they remain motionless due to traffic conditions, traffic control devices or signals, Congestion, or at the direction of law enforcement officials;
- (2) Emergency Vehicles may Idle when performing an emergency or training function. This exemption does not apply when Idling only for driver comfort;
- (3) Military Vehicles;

- (4) Heavy-duty Vehicles may Idle main propulsion engines to operate Power Take Offs to perform the Heavy-duty Vehicle's designed functions (e.g., refrigeration of cargo, processing of cargo, dumping, lifting, hoisting, drilling, mixing, loading, unloading, other operations requiring the use of Power Take Offs). The exemption does not apply when idling only for driver comfort;
 - (5) Heavy-duty Vehicles may Idle if following manufacturer's recommendations for cold engine startup and engine cool-down, maintenance, inspection, servicing, repairing, or diagnostic purposes, if idling is required for such activity;
 - (6) Auxiliary Power Units;
 - (7) A Passenger Bus when no-driver passengers are on board the Vehicle and up to 20 minutes prior to passengers boarding;
 - (8) Heavy-duty Vehicles may Idle when operating defrosters, heaters, air conditions, or other equipment solely to prevent a safety or health Emergency.
- (c) *Requirements.*
- (1) No person who owns or operates a Heavy-duty Vehicle shall cause, let, permit, suffer or allow idling for a period of time in excess of five consecutive minutes in any 60 minute period.
 - (2) Heavy-duty Vehicles located in a Queue Area are not exempted from this Section.

Sections 28-62 – 28-90 reserved.

DIVISION 3. ELECTRICALLY-POWERED VEHICLES

Section 28-91. Operation of electrically-powered vehicles by unlicensed drivers.

(a) *Prohibited.* It shall be unlawful for any Unlicensed Driver to operate an Electrically-powered Vehicle on the Streets of Bald Head Island. It shall further be unlawful for any person, entity or corporation who is the Owner of an Electrically-powered Vehicle to permit an Unlicensed Driver to operate a Golf Cart on the Streets of Bald Head Island. It shall be lawful for an individual privileged to operate a Motor Vehicle on the Streets or highways of the State pursuant to G.S. 20-11(b)-(e) to operate a Golf Cart on the Streets of Bald Head Island, so long as they comply with the requirements and restrictions set forth in G.S. 20-11. It shall be unlawful for such an individual to operate any other Electrically-powered Vehicle on the Streets of Bald Head Island.

(b) *Penalties.* Any person who shall violate this section shall be subject to a civil penalty of \$50.00. Any individual cited for violation of this section shall pay the civil penalty at the office of the Village Clerk within forty-eight (48) hours following receipt of the citation. In addition to any civil sanctions imposed in this section, violation of this section shall constitute a Class 3 misdemeanor, punishable by a fine not to exceed \$500.00 pursuant to G.S. 14-4.

Section 28-92. Mandatory registration of golf carts.

(a) *Registration, sticker display required.* It shall be unlawful for any person to operate or any person who owns or has control of any Golf Cart to allow such Vehicle to be operated on the Streets of the Village, without the Golf Cart having been registered with the Department and without displaying thereon two then-current registration stickers affixed to a conspicuous place on the Golf Cart at areas designated by the Chief. Any person who violates any provision of this section shall be guilty of a Class 3 misdemeanor, punishable by a fine not to exceed \$50.00, pursuant to G.S. 14-4. In addition to any criminal sanctions imposed in this section, the offender shall be subject to a civil violation and receive a penalty in the amount of \$50.00.

(b) *Information required; issuance of stickers.* Persons registering Golf Carts shall provide the following information to the Department:

- (1) Name;
- (2) Addresses/phone numbers;
- (3) Cart identification to include make, model, serial number, color, manufacturer date;
- (4) Written proof of insurance; and
- (5) Other information as deemed necessary by the Department.

Upon registration, the Department shall affix a sticker to the lowest, most clearly visible point on the front left-side of the Golf Cart. The sticker shall be valid for a period of 12 months. The fee for issuance of the Golf Cart registration permit shall be established and may from time to time be revised by the Village Council. The fee schedule for Golf Cart registrations shall be filed at the office of the Village Clerk.

(c) *Insurance.* No Golf Cart will be registered by the Village or be permitted to operate on the Streets of the island without having proper liability/property damage insurance coverage in full force and effect. The limits of liability/property damage insurance coverage shall at no time be less than the minimum coverage required for Motor Vehicles allowed to use the public Streets of the State.

(d) Effective June 1, 2008, all Golf Carts which are registered for the first time with the Village shall be equipped with the following Golf Cart manufacturer or Golf Cart dealer installed devices:

- (1) Front head lights;
- (2) Rear tail lights;
- (3) Rear brake lights;
- (4) Rear view mirror;
- (5) Parking brake;
- (6) Seatbelts for all seating positions on the Golf Cart.

Proper functioning of the aforesaid equipment shall be the responsibility of the Golf Cart Owner and the Village assumes no responsibility with respect to function, operation or inspection of the equipment.

(e) *Dimension and weight limits.* No Personal Use Golf Cart shall be registered or approved for use on the island's Streets if the overall dimensions and/or weight of the Vehicle exceed any of the following dimensions:

- (1) Length: 160.00 inches;
- (2) Height: 84.00 inches;
- (3) Width: 60.00 inches;
- (4) Weight: 1,600.00 pounds.

Provided, however, this subsection (e) shall not apply to Golf Carts used for the regular transportation of persons by Bald Head Island Limited, Bald Head Island Conservancy, Bald Head Island Club, The Old Baldy Foundation, a business entity lawfully operating a taxi service on Bald Head Island, or the Village.

Sections 28-93 – 28-120 reserved.

ARTICLE III. PARKING, STOPPING AND STANDING

Section 28-121. No parking permitted; exceptions.

No Motor Vehicle shall be parked upon or left unattended upon the Streets of the Village unless the Vehicle is mechanically disabled to such an extent that it is impossible to avoid

stopping and temporarily leaving the Vehicle at such location. Any Motor Vehicle parked or left unattended on any Street of the Village shall be subject to towing and impoundment pursuant hereto. Any Motor Vehicle operated by any Unlicensed Driver upon the Streets of the Village and which Vehicle shall not contain therein any Licensed Driver available for the operation of the Vehicle shall be subject to towing and impoundment pursuant hereto.

Section 28-122. Towing and impoundment.

If any Motor Vehicle shall be found by any Officer to be subject to towing and impoundment pursuant to Section 28-121, such Officer is hereby granted authority to detain the Vehicle and to order the towing and removal thereof by the Department from the Streets of the Village to and only to an impound area maintained by the Department for the safe storage thereof. The Officer authorizing towing and impoundment thereof shall secure custody of the Vehicle so impounded and shall be responsible for the delivery of the Vehicle into the custody of any person designated by the Chief to tow and/or store such Vehicle, and the Department shall retain secure physical possession of the Vehicle until the Vehicle shall be reclaimed by the Owner or Lawful Possessor thereof as provided in this Article.

Section 28-123. Notice.

Upon impoundment of any Motor Vehicle the Chief shall cause examination of the Vehicle to be made in an attempt to determine the Owner or Lawful Possessor thereof and shall make his best efforts to determine the identity of the Owner or Lawful Possessor. Upon determination by the Chief of the name and address of any Owner or Lawful Possessor thereof, the Chief shall cause to be made to the Lawful Possessor, if the Owner or Lawful Possessor shall be located upon the Village, or to the Owner, if a Lawful Possessor shall not be identified and located upon the Village, notice of the fact that the Vehicle has been towed and impounded, the place where the Vehicle can be found, the reason for the towing and impoundment thereof, procedure that the Owner or Lawful Possessor must follow to have the Vehicle returned to him or her and the procedures that the Owner or Lawful Possessor must follow to request a probable cause hearing on the towing pursuant to G.S. 20-219.9, *et seq.* The Owner or Lawful Possessor entitled to possession of the Vehicle may request in writing a hearing to determine probable cause for the towing pursuant to G.S. 20-219.9, *et seq.*, rights and privileges of which are hereby incorporated by reference to the Owner or Lawful Possessor of any Vehicle towed. Any Motor Vehicle towed pursuant hereto and which shall be determined to have been towed or impounded without probably cause pursuant to a hearing under G.S. 20-219.9, *et seq.*, shall be immediately released to the Owner or Lawful Possessor thereof without payment of any towing or impoundment fees.

(a) The Department is authorized to retain possession of any Motor Vehicle towed pursuant to this Article until such time as the Owner or Lawful Possessor thereof shall appear to claim possession of the Motor Vehicle. In order to reclaim possession of any Motor Vehicle towed and impounded pursuant to this Article, the Petitioner shall:

- (1) Present evidence that such person is an Owner or Lawful Possessor of such Motor Vehicle;
- (2) Present evidence that such person is, or is accompanied by, a Licensed Driver authorized to operate a Motor Vehicle upon the Streets of the Village;
- (3) Pay the costs of towing the Vehicle in the amount of \$25.00, plus all storage fees accumulated against the Vehicle during the period when the Vehicle shall be impounded; and
- (4) Sign a receipt for possession of the Vehicle.

(b) The Department is authorized to receive funds in satisfaction of towing fees and storage fees as provided in this Article and to deliver receipts for payment of such funds.

Sections 28-124 – 28-160 reserved.

ARTICLE IV. HELMET REQUIREMENTS

Section 28-161. Requirements for helmet and restraining seat use.

(a) It shall be unlawful for any person under the age of sixteen (16) years to operate a Human-powered Bicycle, Human-powered Tricycle, roller blades, in-line skates or roller skates, Human-powered Skateboard, or Human-powered Scooter upon Village property or any public Street or Public Bicycle Path within the Village unless properly wearing a Protective Helmet as defined in Section 28-1.

(b) It shall be unlawful for any person to operate a Segway, Electric Bicycle, Electric Scooter, or Electric Skateboard upon Village property or any Street or Public Bicycle Path within the Village unless properly wearing a Protective Helmet as defined in Section 28-1.

(c) No Bicycle Operator shall allow anyone under the age of four (4) years, or weighing less than forty (40) pounds to ride as a Bicycle Passenger other than in a Restraining Seat, which shall protect the passenger from moving Bicycle parts, unless the passenger is seated astride a permanently affixed seat of a tandem Bicycle.

(d) No Bicycle Operator shall allow anyone to ride as a Bicycle Passenger unless the passenger is wearing a Protective Helmet.

(e) No parent or guardian of any Human-powered Bicycle Operator, under the age of sixteen (16) years, or Bicycle Passenger as described in subsections (c) and (d) of this Section, shall knowingly allow a violation of this section.

(f) It shall be unlawful to rent or lease any Bicycle, Tricycle, roller blades, in-line skates, roller skates, Scooter, or Skateboard to or for the use of any person under the age of sixteen (16) years unless:

- (1) The person is in possession of a Protective Helmet of good fit at the time of such rental or lease; or
- (2) The rental or lease includes a Protective Helmet of good fit.

(g) A person who is in the business of renting Bicycles, roller blades, in-line skates, Scooters, or Skateboards shall post or make available to a person renting a Bicycle, roller blades, in-line skates, Scooter, or Skateboard a written notice explaining the provisions of this Article.

Section 28-162. Civil penalties.

Any person violating this Article shall be subject to a civil penalty of \$10.00. Any individual cited for violation of this Article shall pay the civil penalty at the office of the Village Clerk within forty-eight (48) hours following receipt of the citation. In addition to any civil sanctions imposed in this article, violation of this Article shall constitute a Class 3 misdemeanor, punishable by imprisonment and/or fine pursuant to G.S. 14-4(b).

Sections 28-163 – 28-200 reserved.

PASSED AND ADOPTED by the Village Council this the _____ day of _____, 2010.

BY: _____
J. ANDREW SAYRE, Mayor

ATTEST:

DEBRA C. TALBERT, Village Clerk

1st Reading: _____

2nd Reading: _____

Board Action: _____

ELECTRIC VEHICLE ORDINANCE

	<u>License or Full Provisional License Required</u>	<u>Operation Allowed with Limited Learner's Permit or Limited Provisional License (required compliance with G.S. 20-11)</u>	<u>Helmet Required</u>	<u>Registration Required</u>	<u>Insurance Required</u>
Golf Carts (including 3-wheel "Trike" type Golf Carts)	X	X		X	X
Segways	X		X All ages		
Bicycles (Electric)	X		X All ages		
Bicycles (Non-electric)			X Under 16		
Tricycles (Electric)	X		X All ages		
Tricycles (Non-electric)			X Under 16		
Scooters (Electric)	X		X All ages		
Scooters (Non-electric)			X Under 16		
Skateboards (Electric)	X		X All ages		
Skateboards (Non-electric)			X Under 16		
Skates			X Under 16		

X = Required by Ordinance