

**ARTICLE 1.
PURPOSE AND APPLICABILITY**

Section 1.01 Title 1-2
Section 1.02 Purpose; Authority 1-2
Section 1.03 Applicability 1-3
Section 1.04 Relationship to Existing Zoning and Subdivision Ordinances 1-3
Section 1.05 Relationship to Other Ordinances 1-3
Section 1.06 Relationship to Planning Policies 1-4
Section 1.07 Severability 1-4
Section 1.08 Interpretation and Conflict 1-4
Section 1.09 Identification of Official Zoning Map 1-4
Section 1.10 Zoning Map Interpretation 1-5
Section 1.11 Interpreting Permitted Uses 1-6
Section 1.12 Enforcement and Penalties 1-6
Section 1.13 Effective Date 1-10

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.01 TITLE

This Ordinance is officially titled as *Unified Development Ordinance of Sunset Beach, North Carolina*, and shall be known as the Unified Development Ordinance (UDO). The official map designating the various **zoning** districts shall be titled, *Town of Sunset Beach Zoning Map*, and shall be known as the **Zoning** Map.

SECTION 1.02 PURPOSE; AUTHORITY

- (A) The Unified Development Ordinance and **Zoning** Map are made in accordance with the **CAMA** Land Use Plan and are designed to lessen congestion in the **streets**; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, parks and other public requirements; to control **development of flood prone areas** and regulate **stormwater** runoff/discharge; to regulate **signs**; and to establish proceedings for the **subdivision** of land. The **regulations** have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.
- (B) **Zoning** provisions enacted herein are under the authority of NCGS 160A-381 to 160A-392, which extends to towns/cities the authority to enact **regulations** which promote the health, safety, morals, or the general welfare of the community. It is further authorized under NCGS 160A-382 which authorizes cities to regulate and restrict the **erection**, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional **regulations** may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such **regulations** shall be uniform for each class or type of building throughout each district, but that the **regulations** in one district may differ from those in other districts.
- (C) **Subdivision** provisions enacted herein are under the authority of NCGS 160A-372 which provide for the coordination of **streets** within proposed **subdivisions** with existing or planned **streets** and with other public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the **subdivision**, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.
- (D) This UDO, which combines **zoning** and subdivision authority, is further enacted under Section 1 of SL 2005-418, a revision to NCGS 160A-363.

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.03 APPLICABILITY

- (A) *Jurisdiction.* The **regulations** set forth in this Ordinance shall apply to all property within the Town=s various **zoning** districts as designated on the official **zoning** map, as established in Article 6, **Zoning** Districts.
- (B) *Exemptions.*
- (1) These **regulations** shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site specific plan as required by the requirements previously adopted. Any **preliminary or final subdivision plat** approvals required for such approved or exempted site specific plans shall be conducted in accordance with the requirements of the previous **Zoning** Ordinance or Subdivision Ordinance.
 - (2) The provisions of this Ordinance shall not apply to existing **bona fide farms**. A **bona fide farm** is any tract of land containing at least three (3) acres which are used for the production of, or activities relating to, or incidental to, the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, **livestock**, poultry, and all other forms of agricultural or forest products having a domestic or foreign market.
 - (3) In accordance with NC General Statutes 160A-392, the Town of Sunset Beach UDO applies to State-owned lands only when a building is involved.

SECTION 1.04 RELATIONSHIP TO EXISTING ZONING AND SUBDIVISION ORDINANCES

To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the Town=s **Zoning** Ordinance or Subdivision Ordinance, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted **Zoning** Ordinance does not achieve lawful nonconforming status under this Ordinance merely by the repeal of the **Zoning** Ordinance.

SECTION 1.05 RELATIONSHIP TO OTHER ORDINANCES

It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing **easements**, covenants, deed restrictions, agreements, **vested rights**, or building permits previously adopted or issued pursuant to law and currently effective.

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.06 RELATIONSHIP TO PLANNING POLICIES

It is the intention of the ***Town Council*** that this Ordinance implement the planning policies adopted by the Council for the Town, as reflected in the Town=s currently adopted Comprehensive Plan and other planning documents.

SECTION 1.07 SEVERABILITY

If any section or specific provision or standard of this Ordinance or any regulating district boundary arising from it is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these ***regulations*** except the provision in question. The other portions of these ***regulations*** not affected by the decision of the court shall remain in full force and effect.

SECTION 1.08 INTERPRETATION AND CONFLICT

- (A) In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any ***easements***, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or ***premises*** or upon the ***height*** of buildings, or requires larger ***open spaces*** than are imposed or required by other ordinances, rules, ***regulations***, or by ***easements***, covenants, or agreements, the provisions of this Ordinance shall govern.
- (B) Where one or more articles of this UDO are in conflict with one another, the most restrictive requirements shall apply.

SECTION 1.09 IDENTIFICATION OF OFFICIAL ZONING MAP

- (A) The boundaries of the districts as herein established are shown upon the map accompanying this Ordinance entitled ***Official Zoning Map, Sunset Beach, North Carolina,*** and made a part thereof. The ***zoning*** map and all notations, references, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described and set forth herein.
- (B) The ***Zoning*** Map shall be identified by the signatures of the ***Planning Board*** Chairperson and Mayor, attested by the Town Clerk, and bearing the seal of the Town under the following words: ***This is to certify that this is the Official Zoning Map of the Unified Development Ordinance, Sunset Beach, North Carolina,*** together with the date of the adoption of this Ordinance.

ARTICLE 1. PURPOSE AND APPLICABILITY

- (C) If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matters portrayed on the **Zoning** Map, such changes shall be entered on the **Zoning** Map promptly after the amendment has been approved by the **Town Council**, with an entry on the **Zoning** Map denoting the date of amendment, description of amendment, and signed by the Town Clerk.
- (D) When the **Zoning** Map is officially replaced, unless the prior map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

SECTION 1.10 ZONING MAP INTERPRETATION

Where uncertainty exists with respect to the boundaries of any district shown on the Official **Zoning** Map, the **UDO Administrator** shall employ the following rules of interpretation.

- (A) **Centerline.** Where a boundary line lies within and follows a **street** or **alley** right-of-way, a railroad right-of-way, or utility **easement**, the boundary shall be construed to be in the center of such **street** or **alley** right-of-way, railroad right-of-way, or utility **easement**. If such a **street** or **alley** right-of-way, railroad right-of-way, or utility **easement** forming the boundary between two (2) separate **zoning** districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility **easement**.
- (B) **Edge Line.** Where a boundary line follows the edge of a **street** or **alley** right-of-way, a railroad right-of-way, or utility **easement**, the boundary shall be construed to be on the edge of such **street** or **alley** right-of-way, railroad right-of-way, or utility **easement**. If such a **street** or **alley** right-of-way, railroad right-of-way, or utility **easement** forming the boundary between two (2) separate **zoning** districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated road bed or utility **easement**.
- (C) **Lot Line.** Boundaries indicated as approximately following **lot lines** shall be construed as following such **lot lines**. In the event that a district boundary line divides a **lot** or tract, each part of the **lot** or tract so divided shall be used in conformity with the **regulations** established by this Ordinance for the district in which said part is located.
- (D) **Watercourses.** **Zoning** district boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

ARTICLE 1. PURPOSE AND APPLICABILITY

- (E) *Extensions.* Boundaries indicated as parallel to or extensions of **street** or **alley** right-of-ways, utility **easements**, **lot lines**, Town limits, **County** lines, or extraterritorial boundaries shall be so construed.

- (F) *Scaling.* In unsubdivided property or where a district boundary divides a **lot**, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by use of the scale appearing on the map.

- (G) Where the **UDO Administrator** determines that physical features existing on the ground or actual property lines or other man-made boundary lines used to depict **zoning** district boundaries are at **variance** with those shown on the Official **Zoning** Map, the Board of Adjustment shall have the authority to interpret **zoning** district boundaries.

SECTION 1.11 INTERPRETING PERMITTED USES

If a use is not specifically listed in any of the districts listed in this Ordinance, then the Town of Sunset Beach **Planning Board** shall have the authority to interpret in which district, if any, the use shall be permitted.

SECTION 1.12 ENFORCEMENT AND PENALTIES

- (A) *Certificate of **Zoning** Compliance Permit Required.* No buildings, **signs**, or other structures shall be **erected**, moved, added to, or structurally altered until a **zoning** compliance permit has been issued by the **UDO Administrator**. No certification of **zoning** compliance shall be issued except in conformity with the provisions of this Ordinance.

- (B) *Health Department Approval of Water Supply and Sewage **Disposal** Facilities.* The **UDO Administrator** shall not issue a certificate of **zoning** compliance for any use, building, or purpose without written approval of any and all needed or proposed water supply and sewage **disposal** facilities from the **County** sanitarian. Issuance and use of a certificate of **zoning** compliance shall be subject to all terms and qualifications imposed by the **County** sanitarian.

ARTICLE 1. PURPOSE AND APPLICABILITY

- (C) **Certificate of Occupancy Required.** A **certificate of occupancy** issued by the **UDO Administrator** is required in advance of:

§ Occupancy or use of a building hereafter **erected**, altered, or moved.

§ Change of use of any building or land.

No new building, or part thereof, shall be occupied, and no **addition** or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the **UDO Administrator** has issued a **certificate of occupancy**. The change of occupancy provision shall not apply to rooms intended for **transient** rental.

A **certificate of occupancy**, either for the whole or a part of a building, shall be applied for coincident with or subsequent to the application for a certificate of **zoning** compliance and shall be issued within ten (10) business days after the **erection** or structural alteration of such building or part shall have been completed in conformity with the provisions of this Ordinance. A **certificate of occupancy** shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the **certificate of occupancy** is denied, the **UDO Administrator** shall state in writing the reasons for refusal and the **applicant** shall be notified of the refusal.

A temporary **certificate of occupancy** may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other **temporary uses**.

- (D) **Complaints Regarding Violations.** Whenever the **UDO Administrator** receives a complaint alleging a **violation** of the Ordinance, he/she shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions will be taken. Complaints can be accepted in any manner and shall be confidential.
- (E) **Persons Liable.** The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may jointly and/or independently be held responsible for the **violation** and suffer the penalties and be subject to the remedies herein provided.

ARTICLE 1. PURPOSE AND APPLICABILITY

(F) *Procedures Upon Discovery of Violations.*

- (1) If the **UDO Administrator** finds that any provision of this Ordinance is being violated, he/she shall send a written notice to the person responsible for such **violation**, indicating the nature of the **violation** and ordering the action necessary to correct it. Additional written notices may be sent at the **UDO Administrator=s** discretion.
- (2) The final written notice (and the initial written notice may be the final notice) shall state what action the **UDO Administrator** intends to take if the **violation** is not corrected and shall advise that the **UDO Administrator=s** decision or order may be **appealed** to the Board of Adjustment in accordance with Section 4.04(A).
- (3) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of the Ordinance or pose a danger to the public health, safety, or welfare, the **UDO Administrator** may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Subsection (H).

(G) *Penalties and Remedies for Violations.*

- (1) **Violation** of any Town ordinance is a misdemeanor or infraction as provided in NCGS 14-4. The maximum fine, term of imprisonment, or infraction penalty is the maximum as set forth in NCGS 14-4, unless a lesser amount is otherwise specifically provided herein.
- (2) In addition to constituting a misdemeanor or infraction as provided in NCGS 14-4, **violation** of a Town ordinance shall subject the offender to a civil penalty in accordance with the fee schedule as established by the **Town Council** to be recovered by the Town in a civil action in the nature of debt if said civil penalty is not paid by the offender within seventy-two (72) hours after being cited for the **violation**.
- (3) Any provision of this Ordinance 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 a defense to the application of the Town for equitable relief that there is an adequate **remedy** at law.
- (4) Each day that any **violation** continues after notification by the **UDO Administrator** that such **violation** exists shall be considered a separate offense for purposes of the

ARTICLE 1. PURPOSE AND APPLICABILITY

penalties and remedies specified in this section. Separate notices will not be provided for each **violation**.

- (5) Any one (1), all, or a combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

(H) *Permit Revocation.*

- (1) Any permit issued under this Ordinance may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the following occurs:
 - (a) The permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the permit-issuing Board, or
 - (b) The permit was issued based on erroneous information.
- (2) Before a **special use permit** may be revoked, all of the notice and hearing and other requirements of Article 4 shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
- (3) Before permits other than conditional use and special use may be revoked, the **UDO Administrator** shall give the permit recipient ten (10) days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his/her right to request an informal hearing on the allegations. If the permit is revoked, the **UDO Administrator** shall provide to the permittee a written statement of the decision and the reasons therefor. **Appeals** may be made to the Board of Adjustment as provided for in Section 4.04(A).
- (4) No person may continue to make use of land or building in the manner authorized by any permit issued under this Ordinance after such permit has been revoked in accordance with this Ordinance.

(I) *Judicial Review.*

- (1) Every final decision of the Board of Adjustment shall be subject to review by the Superior Court of **Brunswick County** by proceedings in the nature of certiorari.
- (2) The petition for the writ of certiorari must be filed with the **Brunswick County** Clerk of Court within thirty (30) days after the latter of the following occurrences:

ARTICLE 1. PURPOSE AND APPLICABILITY

- (a) A written copy of the Board of Adjustment=s decision has been filed in the office of the planning department, and
 - (b) A written copy of the Board of Adjustment=s decision has been delivered by personal service or certified mail, return receipt requested, to the ***applicant*** or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.
- (3) A copy of the writ of certiorari shall be served upon the Town of Sunset Beach.

SECTION 1.13 EFFECTIVE DATE

These ***regulations*** shall become effective on December 3, 2012. Upon such date, these ***regulations*** shall supersede, repeal, and replace the Flood Damage Prevention Ordinance, ***Stormwater*** Management Ordinance, ***Zoning*** Ordinance, and Subdivision Ordinance.