

# TEXT AMENDMENT STAFF REPORT



Hearing Date: NA

[UPDATED: 2-4-16, 4-7-16, 8-4-16, 9-30-16, 10-13-16, 11-16-16, 11-18-16]

Case File #: TA-15-13

General Description: Amend Article 2, General Regulations in the UDO to provide development standards for the use of fill on lots.

Town Initiated

Citizen Initiated

Applicant(s): Town of Sunset Beach

## APPLICATION OVERVIEW:

The Sunset Beach Planning & Inspections Department has initiated an application to amend Article 2 in the UDO to provide development standards for placing fill on lots within the Town's planning and zoning jurisdiction. This application is being initiated by Town staff at the direction of the Planning Board. The concern from the Planning Board was centered on the apparent omission of this former Town Code standard in the UDO at the time of its adoption. The Board expressed a need to place this or a derivation of this standard back into the current code.

## STAFF COMMENTARY

Staff has reviewed the UDO for the appropriate section to incorporate this language in the current code. Staff believes the most appropriate location for this language given the difference in Town Code structure versus the UDO format is to place the standard in Article 2, General Regulations. This amendment is drafted as a refinement to existing language in Section 2.18.

**UPDATE (11-16-16): IN RESPONSE TO COMMENTS FROM THE PLANNING BOARD/TOWN COUNCIL, LIMITS TO FILL PLACEMENT FOR CONSTRUCTION OF STREETS, AND PROVISIONS FOR FILL AND GRADE IN THE EVENT OF A STORM. STAFF HAS ALSO REMOVED THE 4" EXEMPTION FROM THE DRAFT ORDINANCE, BUT EXEMPTED SINGLE-FAMILY AND DUPLEXES FROM A REQUIREMENT FOR A**

DEPARTMENT OF PLANNING AND INSPECTIONS

**SCALED GRADING PLAN WHEN NOT ADDING MORE THAN 4" OF FILL. PROVISIONS FOR FILL ON THE REAR LOT LINE HAVE BEEN REMOVED AS THE FINISHED GROUND LEVEL IS MEASURED FROM THE FRONT OF BUILDINGS. FURTHERMORE, HEIGHT AND GRADE SHOULD BE MORE CLOSELY CONSISTENT BETWEEN ADJACENT LOTS FRONTING THE SAME STREET – NOT THOSE AT THE REAR OR ON DIFFERENT STREETS. STAFF HAS ATTACHED THE NEW ORDINANCE LANGUAGE WITH THE NEW INSERTIONS AS "ATTACHMENT A".**

**UPDATE (11-18-16): AT THE PLANNING BOARD MEETING HELD 11/17/16, THE TEXT AMENDMENT WAS UNANIMOUSLY RECOMMENDED FOR ADOPTION BY THE TOWN COUNCIL.**

**PROPOSAL**

**PLANNING BOARD SUMMARY**

Action:

(A)  The Planning Board hereby recommends approval and finds that the proposed amendment to the Unified Development Ordinance is (i) consistent with Policy 14 of the Town's comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) stating that: A) "Sunset Beach desires as much as practicable that all development be designed and placed so as to be compatible with its existing coastal town and residential character," C (i) "the suitability of land to accommodate the use," and C (iv) "the density of development and the proposed height of the structure" and finds that it is in the public interest and further protects the health, safety, and welfare of the Town's citizens.

(B)  The Planning Board hereby recommends denial of the proposed amendment to the Unified Development Ordinance and finds that (i) it is not consistent with the Town's comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) and/or (ii) it is not in the public interests for the following reasons: \_\_\_\_\_.

Recommend Approval (A)  Recommend Denial (B)

(For  5  Against  Abstained )

**Commentary: Recommended for Town Council adoption.**

**TOWN COUNCIL SUMMARY**

Action:

(A) \_\_\_\_\_ The Town Council hereby adopts the proposed amendment to the Unified Development Ordinance is (i) consistent with Policy 14 of the Town’s comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) stating that: A) “Sunset Beach desires as much as practicable that all development be designed and placed so as to be compatible with its existing coastal town and residential character,” C (i) “the suitability of land to accommodate the use,” and C (iv) “the density of development and the proposed height of the structure” and finds that it is in the public interest and further protects the health, safety, and welfare of the Town’s citizens.

(B) \_\_\_\_\_ The Town Council hereby denies the proposed amendment to the Unified Development Ordinance and finds that (i) it is not consistent with the Town’s comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) and/or (ii) it is not in the public interests for the following reasons: \_\_\_\_\_.

Adopt (A)\_\_\_\_\_ Deny (B)\_\_\_\_\_

(For\_\_\_\_\_ Against\_\_\_\_\_ Abstained\_\_\_\_\_)

**Commentary:**

## Existing Text

### **SECTION 2.18 Filling, Grading, and Excavation**

(A) The amount of fill added to a lot will not be greater than one foot above the crown of the road except fill that is necessary to meet Health Department or State Storm water requirements for a permit. The fill will also be limited by the height of the adjacent side lot that has been developed and cannot exceed the developed lot in height by greater than one foot. In the case of two lots back to back or adjacent, any differential in fill greater than one foot at the common line of the two lots, the higher lot must construct a wall, bulkhead, or a satisfactory containment device to prevent the fill and surface water from running on the lower lot.

(B) In lowering the level of a lot by grading or removing sand, the higher limit will not exceed one foot above the crown of the road when finished and stabilized. Sand will not be taken from the island; and sand used to fill low lots will be stabilized to prevent wind erosion.

(C) A silt fence must be erected around that portion of a lot being disturbed that causes erosion onto adjacent property and street right of ways. Exception: Only the portion of a lot adjoining golf course greens or fairways or a portion of a lot for construction access is exempt.

(D) No lot, parcel or tract of land may be disturbed by grading, filling, excavation, and removal of trees or removal of stumps without obtaining a Fill and Grade permit.  
(Am. Ord. of 02/01/16)

#### Applicable Definitions:

##### ***Finished Ground Level***

Considered to be the average finished elevation of the lot measured at the front of the building, or at the rear of the building on ocean front lots, before landscaping and fill for septic tanks and septic fields.

# Attachment A

## Proposed Text

### SECTION 2.18 Filling, Grading, and Excavation

(A) No **lot**, parcel or tract of land may be disturbed by grading, filling, excavation, and removal of trees or removal of stumps without a Town Fill and Grade permit. Permits for Fill and Grade shall be accompanied by a scaled grading plan depicting elevation change prepared by a licensed surveyor, landscape architect, or professional engineer. For single-family residential and duplex dwelling uses, when fill is not proposed in excess of 4 inches, a scaled grading plan is not required.

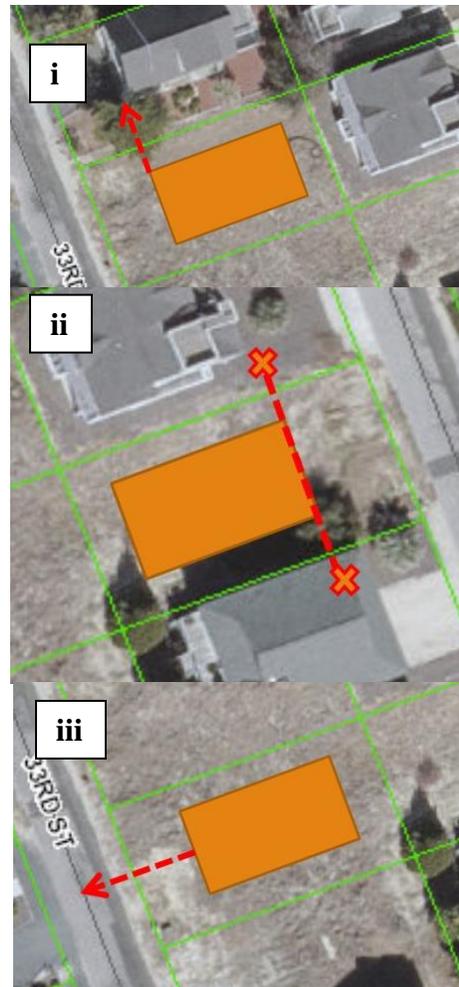
(B) Exceptions to this section:

- a. Filling up to 4 inches where such fill does not exceed a **finished ground level** of one foot above the crown of the road.
- b. Fill that is necessary to meet any County or State requirements for a Health or Storm Water permit. In which case, fill shall only be allowed to the minimum extent necessary to obtain a permit.

(C) Establishment of **Finished Ground Level**:

a. For **lots** on the island:

- i. For **lots** where only one adjacent side **lot** is developed, the **finished ground level** shall be no greater than the **finished ground level** of the adjacent, developed lot.
- ii. For **lots** where both adjacent side **lots** (front and rear for corner **lots**) are developed, the **finished ground level** of any **lot** shall be determined by measuring the average elevation of two points along the proposed **building footprint** that extends 10 feet past each adjacent **lot** line. The **finished ground level** shall be no greater than this measurement.
- iii. For **lots** where both adjacent side **lots** (front and rear for corner lots) are not developed, the **finished ground level** shall be no greater than one foot above the crown of the road.
- iv. For **lots** whose average grade is above the adjacent road, the



# Attachment A

established ***finished ground level*** shall be determined by measuring the average elevation of the ground. The average elevation shall be measured in accordance with Section 2.18 (A)(a)(ii).

- v. Sand will not be taken from the island nor shall it be removed from the CAMA Area of Environmental Concern (AEC) from which it originated.
- vi. In no instance shall the construction of a ***street*** result in a change in elevation at any point along said ***street*** that exceeds one foot above the existing grade at the time of applying for a Town issued permit for Fill and Grade.



- b. For ***lots*** on the mainland:
    - i. When grading or filling of a lot is proposed and natural grade cannot be utilized, the established, the ***finished ground level*** of any ***lot*** shall be measured in accordance with Section 2.18 (A)(a)(ii).
  - c. In instances whereby the ***finished ground level*** cannot be obtained as specified herein due to natural topography, existing development adjacent to the ***lot***, or other factors relative to site conditions, the ***Planning Board*** shall determine the ***finished ground level*** upon review and approval of a proposed grading plan.
- (D) All fill shall be established at a slope not to exceed 3:1 (three feet horizontal run for every one-foot vertical rise) and shall be stabilized to prevent erosion. Alternatively, construction of a retaining wall, bulkhead, or other engineered containment device to prevent fill and surface water from running onto adjacent ***lots*** may be permitted.
- (E) The builder and/or owner shall be responsible for grading the ***lot*** in such a manner as to absorb surface runoff and/or provide a stormwater catchment system for runoff.

# Attachment A

(F) A silt fence must be erected around that portion of a **lot** being disturbed that causes erosion onto adjacent property, **waterbodies**, and/or street right of ways. Exception: Only the portion of the **lot** adjoining golf course greens or fairways or a portion of a **lot** for construction access is exempt.

(G) In the event that a storm or other natural hazard results in the removal of sand from a **lot**, then the affected party may apply for a Town Fill and Grade permit to modify the **finished ground level** in accordance with this ordinance. Where the affected party has a previously approved Town Fill and Grade permit with identified **Finished Ground Level** and spot elevations, then the property owner may apply for a Town Fill and Grade permit to fill and grade the property in accordance with the previously approved permit.

(H) This section does not alleviate any property owner from adhering to nor from obtaining required permits from any County, State or Federal authority.