



**AN ORDINANCE ESTABLISHING
A TEMPORARY MORATORIUM
FOR GRADING AND FILLING OF LOTS
WITHIN THE CORPORATE LIMITS OF THE TOWN OF SUNSET BEACH
AND THE TOWN’S EXTRA-TERRITORIAL JURISDICTION**

WHEREAS, the Town Council (“Council”) of the Town of Sunset Beach (“Town”) has considered a proposal to amend the Official Zoning Map and Unified Development Ordinance (“UDO”) to enact a temporary moratorium for the incorporated limits of the Town and the Town’s Extraterritorial Jurisdiction (“ETJ”) as indicated on the Town’s Official Zoning Map; and,

WHEREAS, the Town Council conducted a hearing on January 4, 2016 and received and considered public comments at said hearing and has further considered a report and recommendation of the Town Administrator, Susan Parker, and the Town’s Director of Planning and Inspections, Rawls Howard, following this initial public hearing; and,

WHEREAS, Council has determined that the enactment of a temporary moratorium is needed because of, among other reasons and concerns, the inadvertent omission of a provision governing the placement and use of fill on lots in the Town’s adoption of the UDO when replacing the Town’s previous Code of Ordinances, which contained such a provision. Council has determined that the enactment of this temporary moratorium Ordinance is needed because of this inadvertent omission and/or changing conditions relative to use of grading and filling on lots and/or in order to achieve the purposes of the Town’s official and adopted CAMA Land Use Plan while the Town considers other ways to address appropriate development practices; and,

WHEREAS, this temporary moratorium Ordinance is intended to temporarily halt development that requests fill in amounts in excess of what is allowed in the Town under the threshold established with this Ordinance so as to allow the Town to address concerns associated with fill in these excess amounts.

NOW, THEREFORE, BE IT ORDAINED by Town Council of the Town of Sunset Beach that:

SECTION I

The Town's statement of the problems or conditions necessitating this moratorium and what courses of action, alternative to a moratorium, were considered by the Town and why those alternative courses of action were not deemed adequate.

The Town contains environmentally sensitive areas that are subject to development pressures and which, in many cases, can only be developed with the use of fill and grade processes. As such, the Town has identified a need to develop methods for addressing appropriate development practices that are more consistent with the Town's adopted CAMA Land Use Plan. Given the Town's unique location, characteristics and presence of substantial areas of environmental concerns, the use of overly-excessive fill when preparing sites for development has the potential to create environmental concerns. Development of island lots in the Town for large single-family developments has been a common practice by land owners and/or developers. These types of applications are expected to continue to be submitted. This moratorium will temporarily halt these types of excessive fill and grading practices and allow the Town to design an action plan and strategies to appropriately and reasonably address these concerns for protection of the public's health, safety and welfare.

Complaints to the Town associated with use of excessive fill on lots include excessive storm water run-off and erosion of environmentally sensitive areas, liability of permitting future homeowners to occupy dwellings in such sensitive areas, and the likelihood of negative impacts to the Town's flood insurance program.

Current regulations under the UDO are not effectively addressing all of the concerns that led to the Town's regulation of fill and grade practices in its prior Code of Ordinances. Specifically, the UDO does not contain the fill and grade standards that were present in the former Code of Ordinances to regulate these practices. This Ordinance will enable the Town to preserve the status quo and, in doing so, allow the Town time by which to review and consider the language from the Town's prior Code of Ordinances on fill and grading, conduct any necessary studies of the issues and concerns with excessive fill and grading, and carefully deliberate as to appropriate language and provisions for a more permanent development strategy for the Town to adopt that is a reasonable and balanced approach to landowner rights and interests with those of the Town and the public.

The Town considered alternatives to the moratorium that included amending the UDO to address the fill concerns. Staff and the Planning Board developed an ordinance amendment to the UDO for consideration. However, due to the amount of construction and development that has occurred since the adoption of the UDO (absent any substantive fill regulations being available), the Council could not obtain a consensus on a plan of action that they believed reflected current development realities. As such, the moratorium is deemed to be needed to reach a consensus on an action plan to address this issue.

SECTION II

The Town's statement of the development approvals subject to this moratorium and how this moratorium on said approvals will address the problems or conditions leading to its imposition.

This temporary moratorium shall apply to all applications for building permits (interior and exterior), applications for site plan approval, special use permits, zoning compliance permits, minor subdivisions and major subdivisions (preliminary plat) on all property within the corporate limits of the Town and its ETJ that are in excess of the regulatory framework of the Town's past Code of Ordinances governing fill and grade standards as set out verbatim in Exhibit 1 to this Ordinance. Applications for building permits (interior and exterior), applications for site plan approval, special use permits, zoning compliance permits, minor subdivisions and major subdivisions (preliminary plat) on all property within the corporate limits of the Town and its ETJ that meet the regulatory framework of the Town's past Code of Ordinances governing fill and grade standards as set out in Exhibit 1 may proceed in normal course during this temporary moratorium, assuming they meet all other legal standards and requirements.

Thus, this moratorium temporarily halts only development proposals requesting fill in excess of the regulatory limits for fill and grade as set forth in Exhibit 1 while the Town considers revised development regulations for future development; and

As provided in G.S. 160A-381, this Ordinance shall not apply to applications accepted prior to the call for the public hearing on December 14, 2015, for the following:

- Any project for which a valid building permit issued pursuant to G.S. 160A-417 is outstanding;
- Any project for which a conditional use permit application or special use permit application has been accepted;
- Development set forth in a site-specific or phased development plan approved pursuant to G.S. 160A-385.1;
- Development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval; and,
- Preliminary or final subdivision plats which have been received and determined by the Town to be complete. Any preliminary subdivision plat accepted for review by the Town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

SECTION III

The Town's date for termination of this temporary moratorium and a statement setting forth why this duration is reasonably necessary to address the problems or conditions leading to imposition of it.

The date for termination of the moratorium is sixty (60) days after adoption of this Ordinance by Town Council.

The Town Council finds the duration is necessary to:

- Slow down the use of excessive fill on lots for development
- Work with the public, staff, and property owners and/or developers to design a fair, reasonable and balanced development plan and strategy.
- Prepare recommendations and regulatory language for Town Council's deliberation and consideration.

SECTION IV

The Town's statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of this moratorium to address the problems and/or conditions leading to imposition of it.

During the duration of this moratorium, Council will conduct and/or directs Town staff to take the following actions:

- Re-insert the previous Town Code of Ordinances language regarding fill and grading into the UDO to establish a minimum standard for addressing fill and grade practices in the Town and its ETJ. (February 1, 2016); and,
- Consider possible amendments and/or revised language and provisions to the UDO (February – March, 2016) on grading and filling, including but not limited to, changes to adopted language to reflect current development realities and practices in the Town consistent with, among other things, the Town's CAMA Land Use Plan.

This the 1st day of February, 2016

Town of Sunset Beach

BY: Ron Watts
Mayor

ATTEST:

Lisa H. Anglin, Town Clerk