



**An Ordinance to Amend Article 2 General Regulations,
Subsection 2.18 Filling, Grading and Excavation
of the Unified Development Ordinance (UDO)
of the Town of Sunset Beach, North Carolina**

THAT WHEREAS, the Town has enacted a Unified Development Ordinance that control land development within both the Town’s incorporated areas and within its extraterritorial area; and

WHEREAS, in order to promote the public health, safety and general welfare and to promote the best interests of the town and community, it is necessary from time to time for the Town Council to consider appropriate revisions, modifications and additions to the town’s Unified Development Ordinance; and

WHEREAS, Town staff has initiated a text amendment requesting a review of the town’s Unified Development Ordinance concerning fill, grade, and excavation standards for lots during construction; and

WHEREAS, the Planning Board reviewed and deliberated the options, and reached a 5 to 0 vote to recommend to the Town Council that an amendment to Subsection 2.18 titled Filling, Grading and Excavation be approved; and

WHEREAS, pursuant to N. C. General Statutes and town ordinances, a public hearing, properly noticed, was held on January 9, 2017, where public comment was heard and considered by the Town Council regarding this issue; and

WHEREAS, the Planning Board and Town Council find that the proposed amendment to the Unified Development Ordinance Article 2 General Regulations Subsection 2.18 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;

WHEREAS, the Town Council further finds that the approval of this proposed amendment is reasonable and in the public interest in that the amendment: (i) provides for minimum standards for grading, filling and excavating lots, (ii) works to help alleviate potential erosion and negative environmental impacts associated with filling and grading lots, and (iii) will protect surrounding properties from inadequate fill, grading, or excavating.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Sunset Beach that Unified Development Ordinance Article 2 General Regulations Subsection 2.18 Filling, Grading and Excavation is hereby repealed and replaced as follows:

SECTION 2.18 Filling, Grading, and Excavation

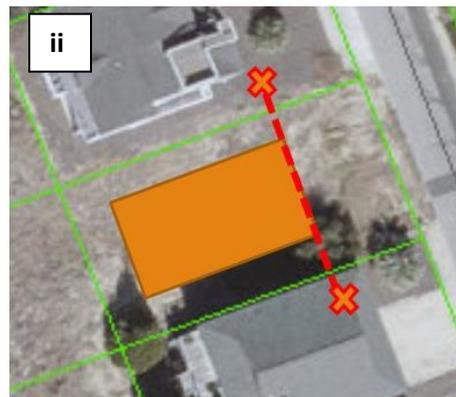
(A) No **lot**, parcel or tract of land may be disturbed by grading, filling, excavation, and removal of trees or removal of stumps without a Town Fill and Grade permit. Permits for Fill and Grade shall be accompanied by a scaled grading plan depicting elevation change prepared by a licensed surveyor, 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. 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 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:
When grading or filling of a lot is proposed, 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.
- (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.

Adopted this the _____ day of _____, 2017.

Town of Sunset Beach

By: Mayor

ATTEST:

Town Clerk