

**ARTICLE 1.
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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 (Comprehensive 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~~ 160D, 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~~ 160D-703 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~~ 160D-804 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~~ 160D-103.

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- (E) *North Carolina Building Code Adopted by Reference.* The most current edition of the “North Carolina State Building Code all Volumes” found therein is hereby adopted as the official building code of the Town.

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 vesting plan** as required by the requirements previously adopted. Any **preliminary or final subdivision plat** approvals required for such approved or exempted **site specific vesting 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** within the ETJ. ~~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 ~~160D-913~~~~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

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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.

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

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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. **Zoning** maps that are so adopted shall be maintained for public inspection in the office of the **UDO Administrator**. The maps may be in paper or a digital format.
- (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.
- (E) Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the Town Clerk in accordance with G.S. 160A-79, shall be admissible into evidence and shall have the same force and effect as would the original map.

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

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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.
- (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**~~ **UDO Administrator** shall have the authority to interpret in which district, if any, the use shall be permitted. In determining if a use is permitted, the **UDO Administrator** shall consider which category of expressed uses most closely matches the use proposed and apply the regulations pertaining to that category to the proposed use. In determining the use which most closely matches the proposed use, the **UDO Administrator** shall consider the density and intensity of the use, and anticipated traffic, noise, light, and odor on adjacent properties. If requested, the **applicant** shall submit evidence to the **UDO Administrator** of the anticipated traffic, noise, light, or odor of the proposed use. Reports prepared by the applicable professional trade may be required (i.e. transportation engineer, environmental scientist, etc.). Such interpretation shall be provided in writing to the property owner and subject to appeal by the Board of Adjustment.

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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) *Building Permit Required.* No buildings, signs, or other structures shall be erected, moved, added to, or structurally altered until a building permit has been issued by the Building Inspector. No certification of occupancy shall be issued except in conformity with the provisions of this Ordinance and the North Carolina State Building Code.
- (C) *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.
- (D) *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.

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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***.

- (E) ***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.
- (F) ***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.
- (G) ***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. The notice of violation shall be delivered to the holder of the ***development approval*** and to the landowner of the property involved, if the landowner is not the holder of the ***development approval***, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the Town Clerk that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.
 - (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

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written notice by invoking any of the penalties or remedies authorized in Subsection (H).

(H) *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 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.

(I) *Permit Revocation.*

- (1) Any permit issued under this Ordinance may be revoked by the permit-issuing authority by the same process as was used for the approval (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

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- (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.
- (J) *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:
 - (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.

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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.

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SECTION 2.01 APPLICABILITY OF GENERAL REGULATIONS

The following general *regulations* of this article shall apply in all situations unless otherwise indicated.

SECTION 2.02 REDUCTION OF LOT AND YARD AREAS PROHIBITED

No *yard* or *lot* existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth in this Ordinance. *Yards* or *lots* created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

SECTION 2.03 ZONING AFFECTS EVERY BUILDING AND USE

No building or land shall hereafter be used and no building or part thereof, shall be *erected*, moved, or altered, except in conformity with the regulation herein specified for the district in which it is located, except as hereinafter provided in this Ordinance.

SECTION 2.04 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING

The minimum *yards* or other *open spaces*, required by this Ordinance, for each and every building hereafter *erected*, moved or structurally altered shall not be encroached upon or considered as meeting the *yard* or *open space* of any other building, except as otherwise specified by this Ordinance.

SECTION 2.05 ONE PRINCIPAL BUILDING

- (A) Only one (1) *principal building* per *lot* shall be allowed unless otherwise allowed by this Ordinance.
- (B) No more than one (1) *principal building* devoted to a residential use shall be allowed on a *lot* except as part of a multi-family *development*.

SECTION 2.06 RELATIONSHIP OF BUILDING TO LOT

Every building hereafter *erected*, moved or structurally altered shall be located on a *lot* and, in no case, shall there be more than one (1) principal residential building and its customary *accessory structures* on a *lot*, except as provided in Section 2.09.

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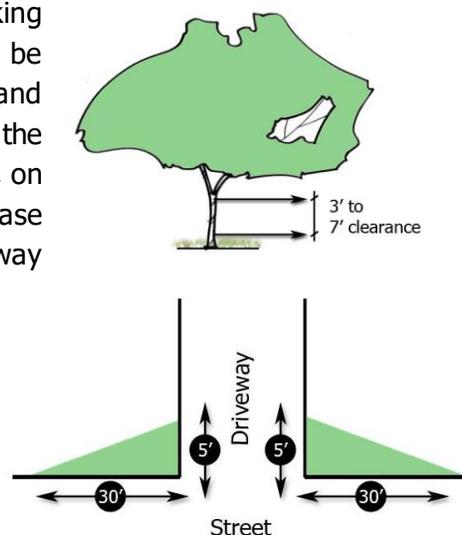
SECTION 2.07 STREET ACCESS

- (A) No building shall be **erected** on a **lot** which does not abut a **street**, as defined in Appendix A. Where a **lot** location has sufficient area to permit the **erection** of more than one (1) **principal building** in conformity with all dimensional requirements of the district in which it is located, there may be provided on the remaining portion of the **lot**, additional buildings for residential purposes which do not abut upon a **street**, provided an **easement** or right-of-way twenty (20) feet or more in width is provided to permit ingress and egress to any additional residential building constructed on the **lot**.
- (B) In a designed **shopping center** in a business district, a building may be **erected** on a **lot** which adjoins a parking area or other dedicated **open space**, used in common with other **lots**.
- (C) This section shall not be construed as permitting the **erection** of any such additional structures beyond a distance of one hundred twenty-five (125) feet seaward of the property line **abutting** the **street** right-of-way of Main Street.

SECTION 2.08 SIGHT VISIBILITY TRIANGLE

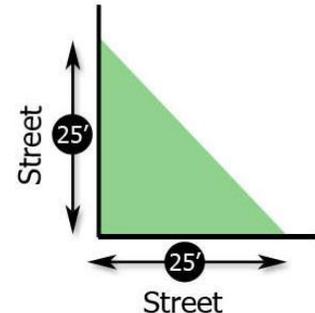
The land adjoining a **street** intersection or egress to a **street** from off-street parking areas shall be kept clear of obstructions to protect the visibility and safety of motorists and pedestrians.

- (A) **Driveways.** At all points of egress from off-street parking areas to a road, unobstructed visibility shall be maintained at an elevation of between three (3) and seven (7) feet of the centerline pavement level, within the two (2) areas formed by two (2) right angle triangles, on the sides of the driveway. Each triangle shall have a base measuring five (5) feet along the edge of the driveway and a height measuring thirty (30) feet along the edge of the road right-of-way.



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- (B) **Corner Lot Intersections.** At the corners of road intersections, unobstructed visibility shall be maintained at an elevation between three (3) and seven (7) feet of the centerline pavement level within an area required by the **regulations** adopted by the NC Department of Transportation in Subdivision Roads: Minimum Construction Standards, May 1, 1983, and any subsequent amendments thereto.



All properties located at the intersection of all public right-of-ways must comply with this standard within six (6) months of the adoption of this Ordinance. Notice may be provided per the direction of the **UDO Administrator**, as deemed necessary.

SECTION 2.09 TEMPORARY STORAGE CONTAINERS

- (A) Temporary storage containers are defined as:
- (1) Containers no larger in dimension than 8 ft x 8 ft 6 in x 16 ft and transported to a designated location for storage purposes (typically known as PODS).
 - (2) Containers designed or used on property zoned for residential purposes for the collection and hauling of waste or debris (construction dumpsters).
 - (3) Non self-propelled, fully enclosed **trailers** that are designed or used to transport goods, materials and equipment and are placed on property zoned or used for residential purposes (semi-**trailers**).
- (B) Temporary storage containers may be placed on property zoned or used for single-family or two-family residential purposes upon compliance with all of the following:
- (1) No more than two (2) temporary storage containers shall be located on a single **lot** or parcel of land.
 - (2) No other type of container or shipping container is located on the same **lot** or parcel of land.
 - (3) Temporary storage containers shall not be used to store or transport nonresidential materials and substances, including but not limited to the following: solid waste, **hazardous materials**, explosives and unlawful substances and materials.

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- (4) Permits issued for temporary storage containers will be issued by the **UDO Administrator** incident to an active building permit. Subsequent to issuance of a **certificate of occupancy** all temporary storage containers must be removed within ten (10) business days. The owner of a **lot** or parcel on which a dumpster will be placed shall be responsible for providing written notice to the **UDO Administrator** within twenty-four (24) hours of the placement. The placement of the storage container will require the issuance of a permit through the Town of Sunset Beach Building Inspections Department. The **UDO Administrator** may approve an extension by issuing a permit up to ninety (90) days, upon determining all of the following:

(Am. Ord. of 06/02/14 – See Appendix D)

- (a) That a principal residential structure is damaged or dilapidated.
- (b) That the residential structure will undergo renovation, repair or reconstruction during the extension.
- (c) That a building permit has been issued for the renovation, repair or reconstruction, if required, and remains valid during the extension.
- (d) That the temporary storage container will not be used to store nonresidential materials and equipment such as contractor=s materials and equipment during the extension. Temporary storage containers shall comply with the following **setbacks**.
 - (i) If a temporary storage container is placed in the required **front yard**, then the temporary storage container shall be located only in the area primarily used for vehicular ingress and egress and must have five (5) feet **setback** from the edge of the right-of-way.
 - (ii) If a temporary storage container is placed in the required **rear** or **side yard**, no **setback** shall be required except that no temporary storage container shall encroach upon **adjacent property**.

SECTION 2.10 TRAILERS, CAMPERS, AND MOTORIZED DWELLINGS

Trailers, campers, tents, and **motorized dwellings** shall not be used for overnight occupancy in any **zoning** jurisdiction of the Town.

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SECTION 2.11 MATERIALS STORAGE YARDS

All **materials storage yards**, whether the principal use of the land or an **accessory use**, shall be enclosed by an attractive, well-maintained opaque **fence** at least seven (7) feet in height. The use shall be permissible only by **appeal** to the Board of Adjustment.

SECTION 2.12 LIVESTOCK AND WILD ANIMALS PROHIBITED; HORSES RESTRICTED

- (A) Maintaining **livestock** and/or **wild animals** on any property located within the Sunset Beach planning jurisdiction is prohibited.
- (B) Horses shall be allowed subject to the following conditions:
 - (1) There shall be at least two (2) acres of land per horse.
 - (2) No structure that houses the horses shall be **erected** or maintained within fifty (50) feet of any property line.
 - (3) Horses shall be pastured in a **fenced** area.
 - (4) **Fences** along any property line or within any **setback** areas shall be a minimum of four and one-half (4.5) feet in height, not to exceed five (5) feet in height, and shall be constructed of cattle wire or wooden boards attached securely on the inside of the post. Electrically charged fencing is prohibited.
- (C) **Nonconforming uses**, at the effective date of this section, shall be subject to Article 8.

SECTION 2.13 USE OF MANUFACTURED HOMES RESTRICTED

- (A) Except as permitted in Section 6.04, there shall be no **manufactured homes** or house **trailers** located within the Town limits or its extraterritorial area on any publicly- or privately-owned land. No person may park any **manufactured home** or house **trailer** on any **street, alley**, highway, or other public place.
- (B) A temporary permit, not to exceed one (1) year, may be required for a manufactured unit (with or without wheels) for the purposes listed below:

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- (1) A construction **trailer** associated with a specific building project. The manufactured unit must be parked on site and not on any **street, alley**, highway, or other public place.
- (2) A manufactured unit used in connection with a public welfare purpose such as a blood drive, X-ray screening, or other similar programs.
- (3) A manufactured unit used for a community sponsored activity, approved by the **Town Council**.

SECTION 2.14 DRIVEWAY ACCESS AND CONNECTIVITY

The intent of the driveway **access** and connectivity standards is to ensure that land adjacent to a thoroughfare is developed in a manner that promotes the health and general welfare of the public. The standards serve to facilitate the provision of transportation by promoting the safe and efficient movement of traffic by reducing excessive driveway cuts.

- (A) Driveways connecting to a **Major Collector**, on the same side of the road, shall be no closer than two hundred (200) feet from each other. Joint use driveways must be provided. The driveway centerline may be the common property line. Approval of driveway **access** between a **lot** and the **Major Collector** at an interval less than those specified herein may be granted only by review and approval of the Sunset Beach **Planning Board**.
- (B) When a **joint access driveway** is developed, the owners/developers of the affected properties shall provide for mutually coordinated parking, **access** and circulation systems, and shall provide design features as necessary to make it visually obvious that **abutting** properties shall be tied together to create a unified system. If a site is developed adjacent to an undeveloped piece of property, it shall be designed so that its parking, **access** and circulation are easily tied together to create a unified system at a later date. If the building site abuts an existing developed property it shall tie into the **abutting** parking, **access** and circulation to create a unified system. Copies of the recorded **access easements** and maintenance agreements must be provided to the Town.
- (C) **Joint access driveways** shall be in accordance with design, construction, and maintenance standards set forth in the North Carolina Department of Transportation's Policy on Street and Driveway Access to North Carolina Highways or as amended. Notwithstanding any other provisions of this section, the driveway **access** provisions shall not be applicable to any **lot** where:

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- (1) The effect of such application would be to substantially diminish the value of the tract or to deprive the *lot* of reasonable *access*; or
- (2) The size of the tract being subdivided or developed, or lack of frontage on the *Major Collector*, makes alternatives A, B, and C above infeasible.

SECTION 2.15 COMPUTATION OF TIME

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded.

SECTION 2.16 FEES

- (A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to *applicants* for *zoning* permits, *sign* permits, conditional use permits, *subdivision* approval, *site plan* approval, *zoning* amendments, *variances*, changes to Ordinance text and map, and other administrative actions. The amount of the fees charged shall be as set forth in the Town=s budget or as established by resolution of the *Town Council* filed in the office of the Town Clerk.
- (B) Fees established in accordance with Subsection (A) shall be paid upon submission of a signed application or notice of *appeal*.

Section 2.17 Underground Electric Service

Underground electric service to all new construction is required. Underground service shall be required in the event of repairs and upgrading of electric service to an existing building. Notwithstanding the above, a developer or builder shall not be required to bury power lines that existed above ground at the time of first approval of a plat or development plan by the Town, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan or the power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

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

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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.

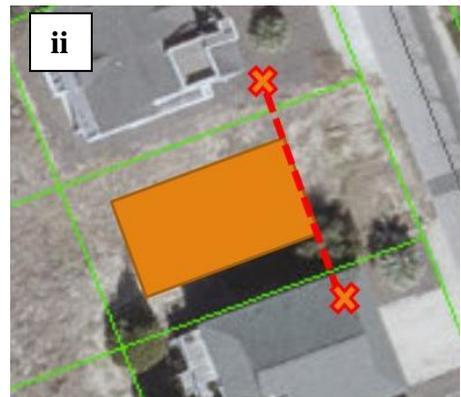
(C) Establishment of **Finished Ground Level**:

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**



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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.

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

Site work in accordance with the approved Town Fill and Grade permit must be complete within 90 days of issuance. Upon expiration and provided that substantial progress has occurred, the Town Fill and Grade permit may be extended for a period of 90 days.

SECTION 2.19 Alteration of Sand Dunes or Ocean Front Vegetation

- (A) It shall be unlawful to alter, disturb, or relocate any sand, sand dune, or cut or remove vegetation on any lot except under the following circumstances, whichever is most restrictive, after proper application to the Town and the issuance of a zoning permit:
 - (1) Alteration needed to accomplish CAMA approved activities;
 - (2) Vegetation exceeding the height of the first, habitable floor level of the house on the lot. In such case, the vegetation may be trimmed down no lower than the first habitable floor level.
- (B) Exemptions. The Town, County, State or Federal governments shall be exempt from this section in the normal upkeep, construction, or maintenance of Town or other approved governmental facilities and infrastructure and in compliance with all applicable CAMA regulations.
(Am. Ord. of 04/19/16)

SECTION 2.20 Maintenance of Docks, Piers and Bulkheads

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Docks, Piers and Bulkheads shall be kept in good repair and condition so as to not adversely threaten or affect the health, safety or general welfare of adjacent property owners or the general public. In the event the Town determines that a dock, pier or bulkhead does not meet the minimum standards for structural condition as set forth herein, staff shall notify the owner of the defective conditions along with the repairs required to remedy said condition.

(A) Minimum Standards for structural condition:

- (1) Walls, partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle and shall not be damaged.
- (2) Floors and roofs shall have adequate supporting members and strength to be reasonably safe.
- (3) Foundations, foundation walls, piers, pilings or other foundation supports shall not be deteriorated or damaged.
- (4) Steps, stairs, landings, porches, decks, gazebos, walkways or other parts or appurtenances shall be maintained in such condition that they not fail or collapse.

(B) Owner to correct hazard.

- (1) If after inspection by the Town's Planning and Inspections Department it is found that such structure is in a damaged condition to the extent that it no longer meets the minimum standards for structural condition as set forth in Section A, the UDO Administrator shall notify the owner of such structure in writing to have the same demolished, removed, repaired or otherwise properly secured within thirty (30) days. The notice shall state the department's findings as to the condition of the structure.
- (2) Where demolition, repair, or removal is not practicable within the specified time, the UDO Administrator may extend that time by an additional ten (10) days on the condition that the owner take such measures to secure the structure so as to prevent accident or injury until such time as the owner can fully comply with the order.

In no instance shall the owner fail to have the structure demolished, repaired, or removed within ninety (90) days of the issuance of the final notice. If repairs have not been made and inspected for compliance with N.C. State Building Code and Section A, within ninety (90) days of the issuance of the final notice. In the event that a CAMA Major Permit is required for necessary repairs, then the owner shall have up to one-hundred eighty (180) days to correct the hazard in accordance with this ordinance. The owner will be subject to penalties and remedies outlined in Section 1.12 (G) of this ordinance if unable to correct the hazard as specified herein.

(New Ord. adopted 03/06/17)

SECTION 2.21 DEBRIS FROM BUILDING CONSTRUCTION

ARTICLE 2. GENERAL REGULATIONS

- (A) The owner, builder, contractor, subcontractor, their representative, agent, or employee of any building being constructed, altered, or restored on any lot or parcel of land within the corporate or extraterritorial limits of the Town, is responsible for immediately removing any construction-related debris, trash, or refuse from any adjacent property to include roads, streets, canals, beach, and public areas.
- (B) All debris and trash must be contained on-site during construction. All garbage receptacles must have high sides or covers to prevent the airborne transport of debris such as plastic and paper. In addition, hazardous materials used during the construction process must be stored and disposed of properly to ensure that they do not enter surface waters.
- (C) All multi-family or larger structures and commercial structures must have dumpsters on site for debris from building construction.
- (D) The person or firm responsible for the site development is responsible for removing or the cost of removing debris, trash and any other hazardous material from surface waters, estuarine waters, SA waters and/or waters of the Atlantic Ocean.

SECTION 2.22 SURVEYS

- (A) A survey shall be made for each lot by a licensed surveyor before a zoning permit or building permit is issued for initial construction or change in the footprint of the structure.
- (B) Before permits are issued, the UDO Administrator may require the owner to furnish the following:
 - (1) A recent property boundary survey, visibly marking exact location of all property corners, shall be made by a registered land surveyor licensed to practice in North Carolina.
 - (a) A recent survey shall be defined as a survey made within a period of no more than six months prior to applying for the permit.
 - (2) An average lot elevation shall be established by a registered land surveyor licensed to practice in North Carolina as per Section 2.18 Filling, Grading, and Excavation.
- (C) An as-built survey prepared by a registered land surveyor licensed to practice in

ARTICLE 2. GENERAL REGULATIONS

North Carolina must be submitted to the UDO Administrator before a certificate of occupancy will be issued.

- (1) The as-built survey must include information regarding impervious surface percentages.
 - (a) If the subject property is within a CAMA AEC, the survey must include information specific to the impervious surface percentage within the limits of the AEC.
- (2) The as-built survey must include elevations for the average finished grade of the subject property, the average finished grades of the adjacent properties (as measured per Section 2.18), and the elevation of the crown of the road.

SECTION 2.23 STREET ADDRESS DISPLAY

- (A) New and existing buildings shall be provided with approved address numbers or letters. Each character shall be a minimum 4 inches (102 mm) high and a minimum of 0.5 inch (12.7 mm) wide. They shall be installed on a contrasting background and be plainly visible from the street or road fronting the property. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole, or other approved sign or means shall be used to identify the structure.
- (B) Owners or occupants of buildings already constructed which do not comply with this ordinance will be notified and requested to meet these requirements within 60 days from the date of notification. A warning notice will be issued after 60 days if the requirements have not been met. If the owner or occupant does not comply voluntarily with this Ordinance within 30 days of delivery of a warning notice by registered or certified mail or by hand delivery to the building of violation, enforcement action pursuant to Section 1.12 may be initiated.

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ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

PART I. UDO ADMINISTRATOR

SECTION 3.01 POWERS AND DUTIES

- (A) The ***UDO Administrator***, to be designated by the Town Administrator, is hereby authorized and it shall be his/her duty to enforce the provisions of this Ordinance. This official shall have the right to enter upon the ***premises*** at any reasonable time necessary to carry out his/her duties. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the ***UDO Administrator*** and/or designated agent. ***Appeal*** of his/her decision may be made to the Board of Adjustment.
- (B) In administering the provisions of this Ordinance, the ***UDO Administrator*** and/or designated agent shall:
- (1) Make and maintain records of all applications for permits, special uses, and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved. A ***development approval*** shall be issued in writing by the ***UDO Administrator***. The ***UDO Administrator*** may issue ***development approvals*** in print or electronic form. Any ***development approval*** issued exclusively in electronic form shall be protected from further editing once issued. Applications for ***development approvals*** may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for ***development approval*** for such development as is authorized by the easement.
 - (2) File and safely keep copies of all plans submitted, and the same shall form a part of the records of his/her office and shall be available for inspection at reasonable times by any interested party.
 - (3) Transmit to the ***Planning Board, Town Council***, and/or the Board of Adjustment all applications and plans for which their review and approval is required.
 - (4) Conduct inspections of ***premises*** and, upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such ***violations***, indicating the nature of the ***violation*** and ordering the action necessary to correct it. The ***UDO Administrator*** shall order discontinuance of

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illegal use of land, buildings or structures; removal of illegal buildings or of **additions**, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent **violation** of its provisions.

- (C) In addition, the **UDO Administrator** shall have the following duties:
- (1) Prepare a report of the Technical Review Procedure and recommendations for the **Planning Board**, Board of Adjustment, or **Town Council** as may be required.
 - (2) Provide administrative interpretations of the UDO.
 - (3) Provide nonconformity determinations, including expansions of **nonconforming uses** and structures.
 - (4) Review and approve **zoning** compliance permits.
 - (5) Chair the Technical Review Committee.
 - (6) Coordinate with the Town's Building Inspectors regarding issuance of certificates of occupancy.
 - (7) Conduct concept meetings with **applicants** for **development** approval as necessary or appropriate.
 - (8) Maintain the official **zoning** map and the public records of the Planning and Inspections Department, **Planning Board**, and Board of Adjustment.
 - (9) Perform site inspections. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

PART II. TECHNICAL REVIEW PROCEDURE

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

SECTION 3.02 PURPOSE

The purpose of the Technical Review Procedure is to facilitate communication and coordination between departments responsible for **development** review.

SECTION 3.03 PROCEDURES; COMPOSITION

- (A) The Technical Review Procedure may be used to review all applications for any application for **development** approval. The Technical Review Procedure shall provide recommendations, as provided herein, regarding the application under its review.
- (B) The Technical Review Procedure may include, but not necessarily be limited to, the following individuals/departments: **UDO Administrator**, Building Inspector, Town Administrator, Fire Department, Police Department, Public Works Department.
- (C) The **UDO Administrator** may request the participation of professional experts or a representative from **County**, regional, or State agencies if the **UDO Administrator** determines that such entities can provide expertise concerning the proposed **development**.

PART III. CONFLICTS OF INTEREST

SECTION 3.04 CONFLICTS OF INTEREST

(A) Members of the **Town Council** or any appointed Board identified in this ordinance must act in the public interest and not to advance their own financial interests. A member of the elected or appointed Board, shall not vote on any **legislative decision** regarding a **development regulation** adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship~~may not vote on a UDO action where there is a potential financial conflict of interest. If the outcome of the vote is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member, the member must not vote on it.~~

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

(B) Appointed Boards. Members of appointed boards shall not vote on any advisory or **legislative decision** regarding a **development regulation** adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. ~~If a Board of Adjustment member is required to vote on any item, the member shall not participate in or vote on any matter in a manner that would violate the affected person's constitutional rights to an impartial decision maker. Members shall not participate in the discussion or voting if he/she has a personal bias or a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a predetermined opinion on the matter, a close family or business tie to a party, or a financial interest in the outcome.~~

(C) **Quasi-Judicial Decisions.** A member of any board exercising quasi-judicial functions pursuant to this UDO shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

(D) When a member is disqualified for a conflict of interest, that member must not participate in the hearing in any way, neither asking questions, nor debating, nor voting on the case. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(E) Administrative Staff. No staff member shall make a final decision on an **administrative decision** required by this UDO if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the **development regulation** or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this UDO unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the town, as determined by the **Town Council**.

PART IV. TOWN COUNCIL

SECTION 3.05 POWERS AND DUTIES

- (A) The Sunset Beach **Town Council** has those powers and duties as provided herein and by Article 5 of Chapter 160A of the North Carolina General Statutes.
- (B) In considering proposed changes in the text of this Ordinance or in the **zoning** map, the **Town Council** acts in its legislative capacity and must proceed in accordance with the requirements of Article 4.
- (C) Unless otherwise specifically provided in this Ordinance, in considering amendments to this Ordinance or the **zoning** map, the **Town Council** shall follow the regular voting and other requirements as set forth in other provisions of the Town code.
- (D) The **Town Council** has the authority to adopt temporary moratoria on any Town **development** approval required by law (refer to Section 4.03).

PART V. PLANNING BOARD

SECTION 3.06 CREATION

Pursuant to North Carolina General Statutes ~~160A-361~~160D-301 and ~~160A-362~~160D-307, there is created a **Planning Board** of the Town, to perform the functions and duties herein prescribed.

SECTION 3.07 MEMBERSHIP AND VACANCIES; ATTENDANCE

- (A) The **Planning Board** shall consist of five (5) members and one (1) alternate member. Four (4) members and the one (1) alternate shall be citizens and residents of the Town, and shall be appointed by the **Town Council**. One (1) member shall be a citizens of the **County** who resides outside the Town but within the Extraterritorial Jurisdiction (ETJ) of the Town as specified by an extraterritorial boundary ordinance adopted pursuant to North Carolina General Statute ~~160A-360~~160D-202(b), and shall be appointed by the **County** Board of Commissioners. The population estimates for proportional representation shall be

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

updated no less frequently than after each decennial census. Beginning June 1st, 2016, the alternate position shall not be reappointed and the subsequent membership shall be five (5) members; four (4) members who are citizens and reside within the Town limits and one (1) ETJ member. The members of the **Planning Board** shall serve for terms of three (3) years with no more than two (2) members being scheduled for replacement due to the expiration of a term in any one (1) year.

- (B) Vacancies occurring for reasons other than expiration of term may be filled as they occur for the unexpired remainder of the term by the Town Council.
- (C) Faithful attendance at meetings of the **Planning Board** shall be a prerequisite to continued membership. The **Town Council** may remove and replace any member who is absent from two (2) consecutive monthly meetings for reasons other than illness.

SECTION 3.08 OPERATION; RULES; MEETINGS; RECORDS

The **Planning Board** shall elect a Chairperson and create and fill such other offices as it may determine. The term of the Chairperson and other officers shall be one (1) year, with eligibility for reelection. The **Planning Board** may adopt rules for transaction of its business and shall keep a record of its member's attendance and of its resolutions, discussions, findings, and recommendations, which record shall be a public record. The **Planning Board** shall hold at least one (1) meeting monthly, and all of its meetings shall be open to the public. There shall be a quorum of three (3) members for the purpose of taking any official action.

SECTION 3.09 JURISDICTION AND VOTING

- (A) The member appointed to the **Planning Board** by the Board of **County** Commissioners as representatives of the extraterritorial **zoning** area outside the Town shall have equal rights, privileges, and duties with the other members of the **Planning Board** in all matters pertaining to the regulation of both the extraterritorial area and the area within the corporate limits.
- (B) When a member of the **Planning Board** is absent from a meeting, the alternate member for the Town shall have all the rights, privileges, and duties of a member of the **Planning Board**. This section shall become null and void on June 1st, 2016.

SECTION 3.10 POWERS AND DUTIES

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

It shall be the duty of the **Planning Board**, in general:

- (A) To make studies of the area within its jurisdiction and surrounding areas;
- (B) To determine objectives to be sought in the **development** of the study area;
- (C) To prepare and adopt plans for achieving these objectives;
- (D) To develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans that the **Town Council** may direct;
- (E) To advise the **Town Council** concerning the use and amendment of means for carrying out plans;
- (F) To exercise any functions in the administration and enforcement of various means for carrying out plans that the **Town Council** may direct;
- (G) To perform any other related duties that the **Town Council** may direct related to this ordinance or other pertinent matters related to land use;

SECTION 3.11 GATHERING BACKGROUND INFORMATION; SPECIAL STUDIES; RECORDS UPON REQUEST

- (A) As background for its **CAMA** Land Use Plan (Comprehensive Plan) and any ordinances it may prepare, the **Planning Board** may gather maps and aerial photographs of man-made and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the community, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of **development** to be expected in the area and its various parts.
- (B) In addition, the **Planning Board** may make, cause to be made, or obtain special studies on the location, condition, and adequacy of special facilities, which may include but are not limited to studies of housing, commercial and **industrial** facilities, parks, playgrounds and recreational facilities, public and private utilities, and traffic transportation and parking facilities.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

- (C) All officials of the Town shall, upon request, furnish to the **Planning Board** such available records or information as it may require in its work. The **Planning Board** or its agents may, in the performance of its official duties, enter upon lands and make examination or surveys and maintain necessary monuments thereon.

SECTION 3.12 CAMA LAND USE PLAN (COMPREHENSIVE PLAN)

- (A) The **CAMA** Land Use Plan, with the accompanying maps, **plats**, charts, and descriptive matter, shall show the **Planning Board's** recommendations to the **Town Council** for the **development** of any proposed area.
- (B) The **CAMA** Land Use Plan and any ordinances or other measures to effectuate the plans shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious **development** of the Town and its environs which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of **development**.

SECTION 3.13 ZONING AMENDMENTS

The **Planning Board** may initiate, from time to time, proposals for amendments of the **zoning** code and map based upon its studies and plans. In addition, it shall review and make recommendations to the **Town Council** concerning all proposed amendments to the **zoning** code and map.

SECTION 3.14 SUBDIVISION REGULATIONS

- (A) The **Planning Board** shall review, from time to time, the existing **regulations** for the control of land **subdivision** in the area and submit to the **Town Council** its recommendations, if any, for the revision of these **regulations**.
- (B) The **Planning Board** shall review all proposed **plats** of land **subdivision** in accordance with Article 13 of this ordinance.

SECTION 3.15 PUBLIC FACILITIES

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The **Planning Board** may review with the Town Administrator and other Town officials and report its recommendations to the **Town Council** upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, on the establishment of building lines, mapped **street** lines, and proposals to change existing **street** lines. However, whether or not there is a recommendation from the **Planning Board**, the **Town Council** may, if it deems wise, take final action on any such matter at any time.

SECTION 3.16 PUBLIC HEARINGS; RECOMMENDATIONS

- (A) The **Planning Board** may conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the plans. Before recommending any such plans to the **Town Council**, the **Planning Board** shall hold at least one (1) public hearing thereon.
- (B) The **Planning Board** shall have the power to promote public interest in and an understanding of its recommendations, and to that end, it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

PART VI. BOARD OF ADJUSTMENT

SECTION 3.17 ESTABLISHMENT OF BOARD OF ADJUSTMENT

- (A) The Board of Adjustment of the Town is hereby established to fulfill the duties and powers described to it by this Ordinance, other applicable provisions of the Town Code, and by North Carolina General Statute, Chapter ~~160A-388~~ 160D-302.
- (B) The Board of Adjustment shall consist of five (5) regular members and two (2) alternate members. Five (5) members shall be citizens and residents of the Town, and shall be appointed by the **Town Council**; two (2) members shall be citizens of the **County** who reside outside the Town but within the ETJ of the Town as specified by an extraterritorial boundary ordinance adopted pursuant to North Carolina General Statute ~~160A-360~~ 160D-202(b), and shall be appointed by the **County** Board of Commissioners. The members of the Board of Adjustment, both regular and alternates, shall serve for terms of three (3) years, such term to be staggered as follows: no more than two (2) members will be scheduled for replacement due to the expiration of term in any one (1) year. Alternates only vote when needed to fill a quorum.

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

- (C) The Board of Adjustment may adopt rules of procedure for the conduct of its affairs and in keeping with the provisions of this Ordinance. All meetings held by the Board of Adjustment shall be held in accordance with North Carolina General Statute ~~Chapter 143, Article~~ ~~336~~160D-406 or as may be amended.

SECTION 3.18 POWERS OF THE BOARD OF ADJUSTMENT

- (A) The Board of Adjustment shall hear and decide ***appeals*** from and review any order, requirement, decision, or determination made by a public official or employee charged with the enforcement of this Ordinance. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, modify the order, requirement, decision, or determination ***appealed*** from and may make such order, requirement, decision, or determination that in its opinion ought to be made, and to that end shall have the power of the official from whom the ***appeal*** is taken.
- (B) The Board of Adjustment shall hear and decide ***variances***. When practical difficulties or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall have the power to vary provisions of this Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done, provided that no change in permitted uses may be authorized by ***variance***.
- (C) The Board of Adjustment is authorized to grant Special Use Permits as specified in this ordinance and following procedures stated in Article 4, Section 4.05.
- (D) The Board of Adjustment is authorized to approve applications for Vested Rights as specified in this ordinance and following procedures stated in Article 4, Section 4.02.
- (E) The Board of Adjustment shall follow statutory quasi-judicial procedures for all development decisions in accordance with NCGS 160D-406.

SECTION 3.19 ORGANIZATION; MEETINGS

- (A) The Board of Adjustment shall elect one (1) member to serve as Chairperson and preside over its meetings and shall elect one (1) member to serve as Vice-Chairperson to fulfill the responsibilities of the Chairperson when the Chairperson cannot. The Board of Adjustment shall appoint a clerk, who may be a Town officer or employee, a member of the Board, or such other person who is qualified to fulfill the requirements of the position. The Board of

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE AUTHORITY

Adjustment may create and fill such offices and committees as it may deem necessary. The term of the Chairperson and other offices shall be one (1) year with eligibility for reelection.

- (B) The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it may take action as expeditiously as reasonably possible. All meetings of the Board of Adjustment shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public in accordance with the North Carolina General Statutes. The Board of Adjustment shall keep a record of its meetings, including attendance of its members, the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.
- (C) Any member of the Board of Adjustment who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board and shall be replaced or reappointed by the **Town Council** or Board of **County** Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board of Adjustment, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

SECTION 3.20 QUORUM AND VOTING

- (A) The concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to grant a variance.
- (B) A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
- (C) For the purposes of this section, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board of Adjustment for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

SECTION 3.21 OATHS AND SUBPOENAS

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- (A) The Chairperson or his/her designee are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.
- (B) The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. ~~160A-393(d)~~160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

Part VII: BUILDING INSPECTOR

SECTION 3.22 DUTIES AND POWERS OF THE BUILDING INSPECTOR.

The Building Inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Building Inspector is authorized to exercise the powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter. The Building Inspector shall have the following powers and duties:

- (A) All the powers, responsibilities, and authority as described in North Carolina GS ~~160A-412~~160D-1104;
- (B) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the town, in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this chapter with respect to the repair, closing or demolition of the dwellings and dwelling units;
- (C) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (D) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;

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- (E) To administer oaths and affirmations, examine witnesses and receive evidence;
- (F) To enter upon premises for the purpose of making examinations and inspections; provided, the entries shall be made in accordance with Section 3.23 and state law, and shall be made in the manner as to cause the least possible inconvenience to the persons in possession;
- (G) To appoint and fix the duties of the officers, agents and employees as he or she deems necessary to assist in carrying out the purposes of this chapter, and to delegate any of his or her functions and powers to the officers, agents and employees; and
- (H) To perform other duties as may be herein prescribed or by the Town Council.

Section 3.23 RIGHT OF ENTRY OF BUILDING INSPECTOR.

- (A) For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. ~~The owner or occupant of every dwelling, dwelling unit, rooming house or rooming unit, or the person in charge thereof, shall give the Inspector free access to that dwelling and its premises at all reasonable times for the purposes of inspection, examination and survey.~~ In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
- (B) Every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall give the owner thereof, or his or her agent or employee, access to any part of that dwelling or dwelling unit and its premises at all reasonable times for the purpose of making the repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

ARTICLE 4.
LEGISLATIVE/QUASI-JUDICIAL PROCEDURES

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SECTION 4.01 AMENDMENT/REZONING PROCEDURES

- (A) *Procedure.* The **Town Council** may amend, supplement, or change the text of this Ordinance and **zoning** map following review and recommendation of the **Planning Board** according to the procedures established in this article. All such changes to this UDO shall be adopted by ordinance.
- (B) *Action by Applicant.* The following action shall be taken by the **applicant**:
- (1) Proposed changes or amendments may be initiated by the **Town Council**, **Planning Board**, or by one (1) or more interested parties.
 - (2) An application for any change or amendment shall contain a description and statement of the present and proposed **zoning** regulations or district boundary to be applied, the names and addresses of the **applicant**, the owner of the parcel of land involved in the change if different from the **applicant**, and all **adjacent property** owners as shown on the **Brunswick County** tax listing. Eight (8) copies of such application shall be filed with the **UDO Administrator** not later than thirty (30) days prior to the **Planning Board** meeting at which the application is to be considered.
 - (3) When a proposed amendment is initiated by individuals or parties other than the **Town Council** or **Planning Board**, a fee established, from time to time, by the **Town Council** shall be paid to the Town for each application for an amendment to cover the necessary administrative costs and advertising.
 - (4) No amendment to **zoning** regulations or a **zoning** map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town. For purposes of this section, "down-zoning" means a **zoning** amendment that affects an area of land in one of the following ways by decreasing the development density of the land to be less dense than was allowed under its previous usage or by reducing the permitted uses of the land to fewer uses than were allowed under its previous usage.
- (C) *Action by the Planning Board.*
- (1) In any case where the **Planning Board** will consider a change in the **zoning** classification of a parcel of land, notice of the proposed petition or application shall be mailed by first class mail to the owner of the parcel of land involved in the

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change and all **abutting** property owners as shown on the **Brunswick County** tax listing at the addresses listed for such property owners on the **Brunswick County** tax abstracts, at least ten (10) days and not more than twenty-five (25) days prior to the **Planning Board** meeting at which the rezoning is to be considered. When multiple parcels are included in a proposed **zoning** map amendment, a posting of each individual site is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The **UDO Administrator** or his or her designee shall certify to the **Planning Board** that such notices have been made.

- (2) In any case where the **Planning Board** will consider an amendment to the **zoning** code text, notice of the amendment to be considered shall be published once in a newspaper having general circulation in the area. The notice shall be published not less than ten (10) days before the date of the **Planning Board** meeting at which the text amendment will be considered.
- (3) The **Planning Board** shall advise and comment on whether the proposed text amendment or map amendment is consistent with the adopted comprehensive plan and any other applicable officially adopted plans. The **Planning Board** shall provide a written recommendation to the **Town Council** that addresses plan consistency and other matters as deemed appropriate by the **Planning Board**, but a comment by the **Planning Board** that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the **Town Council**. If a zoning map amendment qualifies as a **large-scale rezoning** under G.S. 160D-602(b), the **Planning Board** statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

(D) *Action by the **Town Council**.*

(1) *Notice and Public Hearings.*

- (a) No amendment shall be adopted by the **Town Council** until after public notice and hearing. Notice of such a public hearing shall be published once a week for two (2) successive calendar weeks in a local newspaper of general circulation in the Town. In any case where the **Town Council** will consider a change in the **zoning** classification of a parcel of land, notice of the proposed petition or application shall be mailed by first class mail to the owner of that parcel of land and all **abutting** property owners as shown on the **Brunswick County** tax listing at the last addresses listed for such

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property owners on the **Brunswick County** tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. The party applying for the change in **zoning** classification shall submit the following material with the request for rezoning; the application shall be considered incomplete without such material:

1. A list of names of owners, their addresses, the tax parcel numbers of the property involved in the change, and the properties immediately adjacent to the property of the request, including the property owners directly opposite the proposed request but separated by a **street** right-of-way, as shown on the **Brunswick County** tax listing.
 2. Two (2) sets of plain, letter sized envelopes equal in number to the above list of names shall be furnished by the **applicant**. Both sets of envelopes are to be unsealed, stamped, and addressed for mailing to the **adjacent property** owners as shown on the **Brunswick County** tax listing, and bear the return address of the Town.
- (b) At least ten (10) but no more than twenty-five (25) days prior to the date of the meeting at which the **Town Council** will consider the request for rezoning, the Town Clerk shall mail a letter of notification in the supplied envelopes containing a description of the request and the time, date, and location of the public hearing. Additionally, the site proposed for rezoning or an adjacent public right-of-way shall be posted with a notice of the public hearing not less than ten (10) but no more than 25 days prior to the **Town Council** meeting at which the rezoning is to be considered. When multiple parcels are included in a proposed **zoning** map amendment, a posting of each individual site is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The Town Clerk shall certify to the **Town Council** that such notices have been made and such certification shall be deemed conclusive in the absence of fraud.
- (c) The first class mail notice required under Subsections (a) and (b) of this section shall not be required if the **zoning** map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the Town elects to use the expanded published notice. In this instance, the Town may elect to either make the mailed notice provided for in this section or may as an alternative elect to publish a notice of the hearing as required by NCGS ~~160A-364~~160D-601, but

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provided that each advertisement shall not be less than one-half ~~(2)~~ of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent **Brunswick County** property tax listing for the affected property, shall be notified according to the provisions of Subsections (a) and (b).

(d) Except for a Town-initiated **zoning** map amendment, when an application is filed to request a **zoning** map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the **applicant** shall certify to the **Town Council** that the owner of the parcel of land as shown on the **Brunswick County** tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the **Town Council** that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud. Notice shall be made in any manner permitted under NCGS 1A-1, Rule 4(j).

(2) **Recommendations of Planning Board.** Before an item is placed on the consent agenda to schedule a public hearing, the **Planning Board's** recommendation on each proposed **zoning** amendment must be determined. If no recommendation is received from the **Planning Board** within sixty (60) days from the date when submitted to the **Planning Board**, the petitioner may take the proposal to the **Town Council** without a recommendation from the **Planning Board**. The **Town Council**, at the close of public hearing, may defer taking lawful action on the proposed amendment until it has sufficient time to consider any new evidence or suggestions presented at the public hearing.

(a) No member of the **Town Council** shall vote on any **zoning** map amendment or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(b) Prior to adopting or rejecting any **zoning** amendment, the **Town Council** shall adopt a statement describing whether the action is consistent with the adopted comprehensive plan and any other applicable officially adopted plans and explaining why the Council considers the action taken to be reasonable and in the public interest. The requirement for a plan consistency

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statement may also be met by a clear indication in the minutes of the **Town Council** meeting that at the time of action on the amendment the **Town Council** was aware of and considered the **Planning Board's** recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a **large-scale rezoning** under G.S. 160D-602(b), the **Town Council** statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

- (c) When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the **Town Council**. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a **large-scale rezoning** under G.S. 160D-602(b), the **Town Council** statement on reasonableness may address the overall rezoning. ~~The **Town Council** shall adopt a statement of reasonableness for all small-scale rezonings as defined by the North Carolina General Statutes.~~ The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

- (3) *Citizen Comments.* If any resident or property owner in the town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the **Town Council**. If the proposed change is the subject of a quasi-judicial proceeding under G.S. ~~160A-388~~ 160D-406, the clerk shall provide only the names

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and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

~~(4) *Statement of Consistency.* Prior to adopting or rejecting any **zoning** amendment, the **Town Council** shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Council considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review.~~

(E) *Withdrawal of Application.* An **applicant** may withdraw his or her application at any time by written notice to the **UDO Administrator**.

SECTION 4.02 VESTED RIGHTS PROVISION AND PERMIT CHOICE

(A) *Purpose.* The purpose of this section is to implement the provisions of NCGS ~~160A-385.1~~ 160D-108; 108.1 pursuant to which a statutory **zoning vested right** is established upon the approval of a **site specific vesting development** plan.

(B) *Establishment of a **Vested Right**.*

- (1) A **zoning vested right** shall be deemed established upon the valid approval, or conditional approval, by the Board of Adjustment of a **site specific vesting development plan**, following notice and ~~public~~ hearing as provided for by law.
- (2) The approving authority may approve a **site specific development vesting plan** upon the terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. The failure to satisfy any of the terms and conditions so imposed will result in a forfeiture of **vested rights**.
- (3) Notwithstanding divisions (1) and (2) above, approval of a **site specific development vesting plan** with the condition that a **variance** be obtained shall not confer a **zoning vested right** unless and until the necessary **variance** is obtained.
- (4) A **site specific development vesting plan** shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- (5) The establishment of a **zoning vested right** shall not preclude the application of overlay **zoning** that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or **regulations** that are general in

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nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new or amended **regulations** shall be effective with respect to property that is subject to a site specific ~~development~~**vesting** plan upon the expiration or termination of the **vested right** in accordance with this section.

- (6) A **zoning vested right** is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific ~~development~~**vesting** plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(C) *Approval Procedures and Approval Authority*

- (1) Except as otherwise provided in this section, an application for site specific ~~development~~**vesting** plan approval shall be processed in accordance with the procedures established by Ordinance and shall be considered by the designated approval authority for the specific type of **zoning** or land use permit or approval for which application is made.
- (2) In order to obtain a **zoning vested right** hereunder, the **applicant** must set forth, in writing, at the time of application that the **applicant** seeks a **zoning vested right**. All applications for **zoning vested rights** shall be considered by the Board of Adjustment following notice and a public ~~an~~**evidentiary hearing** as provided in NCGS ~~160A-364~~160D-406(b) irrespective of whether or not prior approval procedures required the notice and hearing.
- (3) In order for a **zoning vested right** to be established upon approval of a site specific ~~development~~**vesting** plan, the **applicant** must indicate, at the time of application, on a form to be provided by the Town, that a **zoning vested right** is being sought.
- (4) Each map, **plat**, **site plan** or other document evidencing a **site specific** ~~development~~**vesting plan** shall contain the following notation: "Approval of this plan establishes a **zoning vested right** under NCGS ~~160D-108; 108.1~~160A-385.1. Unless terminated at an earlier date, the **zoning vested right** shall be valid until (date)."
- (5) Following approval or conditional approval of a **site specific** ~~development~~**vesting plan**, nothing in this section shall exempt the plan from subsequent reviews and

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approvals to ensure compliance with the terms and conditions of the original approval, provided that the reviews and approvals are not inconsistent with the original approval.

- (6) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the **Zoning** Ordinance.

(D) *Duration.*

- (1) A **zoning** right that has been vested as provided in this section shall remain vested for a period of two (2) years unless specifically and unambiguously provided otherwise pursuant to Subsection 4.02(D)(2) below. This vesting shall not be extended by any amendments or modifications to a **site specific ~~development~~vesting plan** unless expressly provided by the approval authority at the time the amendment or modification is approved.

- (2) Notwithstanding the provisions of Subsection 4.02(D)(1) above, the approval authority may provide that rights shall be vested for a period exceeding two (2) years, but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size of **development**, the level of investment, the need for or desirability of the **development**, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the **site specific ~~development~~vesting plan** is approved.

- (3) Upon the issuance of a building permit, the expiration provisions of NCGS ~~160A-418~~160D-1110 and the revocation provisions of NCGS ~~160A-422~~160D-1111 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a **zoning vested right** under this section is outstanding.

(E) *Termination.* A **zoning** right that has been vested as provided in this section shall terminate:

- (1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- (2) With the written consent of the affected land owners;
- (3) Upon findings by the **Town Council**, by ordinance after notice and an **evidentiary ~~public~~hearing**, that natural or man-made hazards on or in the immediate vicinity of

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the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the **site specific ~~development~~vesting plan**;

- (4) Upon payment to the affected land owner of compensation for all costs, expenses and other losses incurred by the land owner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the Town, together with interest thereon at the legal rate until paid (compensation shall not include any diminution in the value of the property which is caused by the action);
 - (5) Upon findings by the **Town Council**, by ordinance after notice and a hearing, that the land owner or his/her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the **site specific ~~development~~vesting plan**; or
 - (6) Upon the enactment or promulgation of a State or Federal law or regulation that precludes **development** as contemplated in the **site specific ~~development~~vesting plan**, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.
- (F) *Voluntary Annexation.*
- (1) A petition for annexation filed with the Town under NCGS 160A-31 or NCGS 160A-58.1 shall contain a signed statement declaring whether or not any **zoning vested right** with respect to the properties subject to the petition has been established under NCGS 160D-108; 108.1~~160A-385.1 or NCGS 153A-344.1~~.
 - (2) A statement that declares that no **zoning vested right** has been established under NCGS 160D-108; 108.1~~160A-385.1 or NCGS 153A-344.1~~, or the failure to sign a statement declaring whether or not a **zoning vested right** has been established, shall be binding on the land owner and any such **zoning vested right** shall be terminated.
- (G) *Limitations.* Nothing in this section is intended or shall be deemed to create any **vested right** other than those established pursuant to NCGS 160D-108; 108.1~~160A-385.1~~.
- (H) *Permit choice.* If a land **development regulation** is amended between the time a **development** permit application was submitted and a **development** permit decision is

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made or if a **land development regulation** is amended after a **development** permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies. An **applicant** may proceed with a complete application for a **development approval** prior to final action on a proposed change to the UDO.

SECTION 4.03 TEMPORARY MORATORIA PROCEDURES

North Carolina General Statute ~~160A-381(e)~~160D-107 explicitly recognizes the authority of cities/towns to adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions as provided in NCGS 160D-107. ~~Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a **development** moratorium with a duration of sixty (60) days or any shorter period, the **Town Council** shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven (7) days before the date set for the hearing. A **development** moratorium with a duration of sixty-one (61) days or longer, and any extension of a moratorium so that the total duration is sixty-one (61) days or longer, is subject to the notice and hearing requirements of NCGS 160A-364. Absent an imminent threat to public health or safety, a **development** moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to NCGS 160A-417 is outstanding, to any project for which a **special-use permit** application has been accepted, to **development** set forth in a site-specific or phased **development** plan approved pursuant to NCGS 160A-385.1, to **development** for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or **final subdivision plats** that have been accepted for review by the Town prior to the call for public hearing to adopt the moratorium. 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.~~

~~Any ordinance establishing a **development** moratorium must expressly include at the time of adoption each of the following:~~

~~(A) A clear statement of the problems or conditions necessitating the 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.~~

~~(B) A clear statement of the **development** approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.~~

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~~(C) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.~~

~~(D) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.~~

~~No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a **development** moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (A) through (D) of this subsection, including what new facts or conditions warrant the extension.~~

~~Any person aggrieved by the imposition of a moratorium on **development** approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. In any such action, the Town shall have the burden of showing compliance with the procedural requirements of this subsection.~~

SECTION 4.04 APPEALS, VARIANCES, AND INTERPRETATIONS

(A) Appeals.

- (1) An **appeal** from any final order or decision of the **UDO Administrator** regarding a development regulation may be taken to the Board of Adjustment by any person aggrieved. An **appeal** is taken by filing with the **UDO Administrator** and the Board of Adjustment a written notice of **appeal** specifying the grounds therefor. A notice of **appeal** shall be considered filed with the **UDO Administrator** and the Board of Adjustment when delivered to the Planning and Inspections Department, and the date and time of filing shall be entered on the notice by the **UDO Administrator**.
- (2) An **appeal** must be taken within thirty (30) days after the date of the decision or order **appealed** from. Any person with standing to **appeal** has 30 days from receipt from any source of actual or constructive notice of the final decision or notice of determination within which to file an **appeal**. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first class mail is

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deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

- (3) Whenever an **appeal** is filed, the **UDO Administrator** shall forthwith transmit to the Board of Adjustment all the papers constituting the record relating to the action **appealed** from.
- (4) An **appeal** to the Board of Adjustment regarding any order by the **UDO Administrator** shall result in the following:
 - (a) An **appeal** of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the **appeal** to the Board of Adjustment and any subsequent **appeal** in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the **development regulation**. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.~~All petitions and/or progress relating to the project for which the **appeal** was filed shall cease.~~
 - (b) Notwithstanding any other provision of this section, **appeals** of decisions granting a **development approval** or otherwise affirming that a proposed use of property is consistent with the **development regulation** does not stay the further review of an application for **development approvals** to use the property; in these situations, the appellant or Town may request and the board may grant a stay of a final decision of **development approval** applications, including building permits affected by the issue being appealed.~~The temporary stay may be lifted if the **UDO Administrator** certifies to the Board of Adjustment that a stay would result in an immediate threat to life and/or property.~~
 - ~~(c) If the stay is repealed based on evidence presented by the **UDO Administrator**, the Board of Adjustment or a court of record may enact a~~

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~~restraining order against the **UDO Administrator**. This action will enact a stay ceasing all progress regarding the project for which the **appeal** was filed.~~

- (5) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination **appealed** from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the **appeal** is taken.
- (B) **Variances.**
- (1) An application for a **variance** shall be submitted to the Board of Adjustment by filing a copy of the application with the **UDO Administrator**. Applications shall be handled in the same manner as applications for permits.
- (2) A **variance** may be approved by the Board of Adjustment if it concludes that, by granting the **variance**, all the following findings of fact are met by the Board of Adjustment's decision and that the variance is the minimum **variance** that will make possible the reasonable use of the land, building, or structure. The Board may reach these conclusions if they find that:
- (a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
 - (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
 - (c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;
 - (d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

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- (3) In granting **variances**, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the **variance** applies will be as compatible as practicable with the surrounding properties.
 - (4) In denying a **variance**, the Board of Adjustment shall make findings of fact that one (1) or more of the requirements specified hereinabove do not exist.
 - (5) Findings of fact made by the Board of Adjustment under this section shall be based upon only the evidence presented at the hearing at which the **variance** is considered.
 - (4) The nature of the **variance** and any conditions attached to it shall be entered on the face of the **zoning** permit, or the **zoning** permit may simply note the issuance of the **variance** and refer to the written record of the **variance** for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.
- (C) *Interpretations.*
- (1) The Board of Adjustment is authorized to interpret the **zoning** map and to pass upon disputed questions of **lot lines** or district boundary lines and similar questions only upon appeal from a decision of such from the **UDO Administrator**. If such questions arise in the context of an **appeal** from a decision of the **UDO Administrator**, they shall be handled as provided in Section 4.04(A).
 - ~~(2) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with **UDO Administrator**. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.~~
 - (3) Where uncertainty exists as to the boundaries of districts as shown on the Official **Zoning** Map, the rules of interpretation as specified in Section 1.10 shall be applied by the **UDO Administrator** in their decision. Where uncertainties continue to exist after application of the above rules, **appeal** of the **UDO Administrator's** decision may be taken to the Board of Adjustment as provided in Section 4.04(A) of this Ordinance.
 - (4) Interpretations of the location of **floodway** and **floodplain** boundary lines may be made by the **UDO Administrator** as provided in Article 12, Part I.

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- (D) *Requests to be Heard Exeditiously.* As provided in Article 3, the Board of Adjustment shall hear and decide all **appeals, variance** requests, and requests for interpretations, including map boundaries, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 4.04(F), and obtain the necessary information to make sound decisions.
- (E) **Evidentiary Hearing Required on Appeals, Variances and ~~Interpretations~~ Special Use Permits.**
- (1) Before making a decision on an **appeal** or an application for a **variance** or ~~interpretation~~ special use permit, the Board of Adjustment shall hold a hearing on the ~~appeal or~~ application within sixty (60) days of the submittal of a completed ~~appeal or~~ application.
 - (2) Subject to Subsection (3), the hearing shall be open to the public and all persons interested in the outcome of the ~~appeal or~~ application shall be given an opportunity to present evidence and arguments. All persons presenting evidence or arguments shall be sworn in by the Chairperson prior to the presentation of any evidence or arguments. For **appeals**, the official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town, shall be present at the **evidentiary hearing** as a witness.
 - (3) The Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
 - (4) The Board of Adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six (6) weeks or more elapses between hearing dates.
 - (5) The required application fee and all supporting materials must be received by the **UDO Administrator** before an application is considered complete and an **evidentiary hearing** scheduled.
- (F) *Notice of Hearing.* The **UDO Administrator** shall give notice of any hearing required by Section 4.04(E) as follows:

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- (1) Notice of ***evidentiary hearings*** conducted pursuant to this UDO shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons who have made a written request for such notice. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the ***UDO Administrator*** shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an ***evidentiary hearing*** that has been convened without further advertisement. If an ***evidentiary hearing*** is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement. ~~Notice shall be given to the appellant or ***applicant*** and any other person who makes a written request for such notice by mailing to such persons a written notice not later than ten (10) days before the hearing.~~
- (2) Notice shall be given to neighboring property owners by mailing a written notice not later than ten (10) days before the hearing to those persons who have listed for taxation real property any portion of which is located within one hundred fifty (150) feet of the ***lot*** that is the subject of the application or ***appeal***.
- (3) The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the ***lot*** that is the subject of the application or ***appeal***, and give a brief description of the action requested or proposed.

(G) *Burden of Proof in Appeals and Variances.*

- (1) When an ***appeal*** is taken to the Board of Adjustment in accordance with Section 4.04(A), the ***UDO Administrator*** shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision ***appealed*** from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- (2) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 4.04(B)(2), as well as the burden of persuasion on those issues, remains with the ***applicant*** seeking the ***variance***.

(H) *Board of Adjustment Action on Appeals and Variances.*

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- (1) **Appeals.** A motion to reverse, affirm, or modify the order, requirement, decision, or determination **appealed** from shall include a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the majority vote necessary for adoption (see Section 3.20), then a motion to uphold the decision **appealed** from shall be in order.
 - (2) **Variance.** The Board of Adjustment may take a separate vote and vote affirmatively (by a four-fifths (4/5) majority-see Section 3.20) on each of the four (4) required findings stated in Section 4.04(B)(2). Insofar as practicable, a motion to make an affirmative finding on all of the requirements set forth in Section 4.04(B)(2) shall include a statement of the specific reasons or findings of fact supporting such motion.
 - (3) A motion to deny a **variance** may be made on the basis that any one (1) or more of the four (4) criteria set forth in Section 4.04(B)(2) are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board of Adjustment's decision if supported by more than one-fifth (1/5) of the Board's membership (excluding vacant seats).
- (I) *Evidence/Presentation of Evidence.*
- (1) The provisions of this section apply to all hearings for which a notice is required by Section 4.04(F).
 - (2) All persons who intend to present evidence to the Board of Adjustment shall be sworn in by the Chairperson.
 - (3) All findings and conclusions necessary to the issuance or denial of the requested permit or **appeal** (necessary findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may necessary findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.
 - (4) The Board of Adjustment has the authority to limit testimony that is irrelevant.

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- (5) The entirety of a quasi-judicial hearing and deliberation shall be conducted in open session.
 - (6) Parties to a quasi-judicial hearing have a right to cross-examine witnesses.
 - (7) Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.
 - (8) If a Board of Adjustment member has prior or specialized knowledge about a case, that knowledge should be disclosed to the rest of the Board of Adjustment and parties at the beginning of the hearing.
 - (9) The Board of Adjustment, in conducting the hearing, has the authority to issue subpoenas to compel testimony or the production of evidence deemed necessary to determine the matter.
- (J) *Modification of Application at Hearing.*
- (1) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Adjustment, the **applicant** may agree to modify his/her application, including the plans and specifications submitted.
 - (2) Unless such modifications are so substantial or extensive that the Board of Adjustment cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board of Adjustment may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.
- (K) *Record.*
- (1) Accurate written minutes shall be kept of all such proceedings.
 - (2) Whenever practicable, all documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two (2) years.
- (L) *Written Decision.*
- Any decision made by the Board of Adjustment regarding an **appeal, variance**, or interpretation shall be reduced to writing and served upon the **applicant** or appellant and all other persons who make a written request for a copy.

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SECTION 4.05 SPECIAL USE PERMITS

(A) *Purpose.*

- (1) The procedure set forth in this section for considering requests for ***special use permits*** is designed to provide an orderly process for reviewing requests for those land uses specified as permissible on application to the Board of Adjustment.
- (2) ***Special use permits*** shall not be issued as a matter of right, but only after the Board of Adjustment finds that the ***applicant*** has met all standards and requirements set forth herein for the granting of the permits.
- (3) The purpose of having the uses being special is to ensure that they would be compatible with surrounding ***development*** and in keeping with the purposes of the general ***zoning*** district in which they are located and would meet other criteria as set forth in this section. All ***special use permits*** require some form of a ***site plan*** as outlined in Article 5.

(B) *Application and Fees.*

- (1) Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold or exclusive possessory interest and which is specifically enforceable may file an application for a ***special use permit***.
- (2) The deadline for which a ***special use permit*** application shall be filed with the ***UDO Administrator*** is the first business day of the month. Permit application forms shall be provided by the ***UDO Administrator***. In the course of evaluating the proposed special use, the Board of Adjustment may request additional information from the ***applicant***. A request for any additional information may stay any further consideration of the application by the Board of Adjustment.
- (3) Applications for ***special use permits***, signed by the ***applicant***, shall be addressed to the Board of Adjustment. A fee shall be paid at the time of application according to a fee schedule as set by the ***Town Council***.
- (4) The application shall be accompanied by a ***site plan*** drawn to scale which complies with the ***site plan*** requirements contained in Section 5.03(C).

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- (5) One (1) copy of the application, and all attachments and maps, for a **special use permit** shall be submitted to the **UDO Administrator**.

(C) *Board of Adjustment Action.*

- (1) All applications for a **special use permit**, including required **site plans**, may, at the discretion of the UDO Administrator, follow the Technical Review Procedure (Article 3, Part II) before being submitted to the Board of Adjustment for review and consideration. The **UDO Administrator** shall forward any comments received during the Technical Review Procedure to the Board of Adjustment.
- (2) **Special use permits** are quasi-judicial decisions approved by majority vote of the members of the Board of Adjustment. Quasi-judicial decisions must be conducted in accordance with Sections 4.04(I) through 4.04(L). For the purposes of this section, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- (3) Once the comments of the Technical Review Process have been made, the Board of Adjustment shall hold an ~~public~~ **evidentiary hearing** to consider the application at its next regularly scheduled meeting. A quorum of the Board of Adjustment is required for this hearing. Notice of the ~~public~~ **evidentiary hearing** shall be as specified in Section 4.04(F). ~~In addition, notice shall be given to other potentially interested persons by publishing a notice one (1) time in a newspaper having general circulation in the area not less than ten (10) nor more than twenty five (25) days prior to the hearing.~~
- (4) In approving an application for a **special use permit**, the Board of Adjustment may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Adjustment. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular **development** found elsewhere in a similar **zoning** district.
- (5) The **applicant** has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which Subsection 4.05(C)(6) below requires.

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- (6) The Board of Adjustment shall issue a **special use permit** if it has evaluated an application through a quasi-judicial process and determined that:
- (a) The use requested is listed among the special uses in the district for which application is made and the use meets all required conditions and specifications.
 - (b) The requested use will be in harmony with the area in which it is located, and in general conformity with the character of the surrounding or adjoining districts, and will not adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property if developed according to the submitted plans.
 - (c) The use will not substantially injure the value of adjoining or **abutting** property.
 - (d) The requested use will be in conformity with the current land use plan.
 - (e) Adequate utilities, **access** roads, drainage, sanitation, and other necessary facilities have been or are being provided.
 - (f) Adequate measures have been or will be taken to provide ingress and egress designed so as to minimize traffic congestion in the public **streets**.
 - (g) The special use shall, in all other respects, conform to the applicable **regulations** of the district in which it is located.
- (7) *Conditions and Guarantees.* Prior to the granting of any special use, the Board of Adjustment may require conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified above. In all cases in which special uses are granted, the Board of Adjustment shall require evidence and guarantees as it may deem necessary as proof that the conditions required in connection therewith are being and will be complied with. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the Town, including,

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without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. All such conditions shall be consented to in writing by the **applicant** or landowner.

- (a) The conditions may include a time limitation.
 - (b) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, that a solid board **fence** be **erected** around the site to a height of six (6) feet before the use requested is initiated.
 - (c) Conditions of a continuing nature may be imposed. For example, exterior loud speakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m.
- (D) *Effect of Approval.* If an application for a **special use permit** is approved by the Board of Adjustment, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the **special use permit**, or develop any other use listed as a permitted use for the general **zoning** district in which it is located.
- (E) *Binding Effect.* Any **special use permit** so authorized shall be binding to the property included in the permit unless subsequently changed or amended by the Board of Adjustment.
- (F) *Certificate of Occupancy.* No **certificate of occupancy** for a use listed as a special use shall be issued for any building or land use on a piece of property which has received a **special use permit** for the particular use unless the building is constructed or used, or the land is developed or used, in conformity with the **special use permit** approved by the Board of Adjustment. In the event that only a segment of a proposed **development** has been approved, the **certificate of occupancy** shall be issued only for that portion of the **development** constructed or used as approved.
- (G) *Change in Special Use Permit.* Any request to materially change the **special use permit** once it has been issued must first be reviewed and approved in accordance with Section 4.05(B) and 4.05(C).
- (H) *Implementation of Special Use Permit.*

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- (1) A ***special use permit***, after approval by the Board of Adjustment, shall expire one (1) year after the approval date if work has not commenced or in the case of a change of occupancy the business has not opened; however, it may be, on request, continued in effect for a period not to exceed six (6) months by the ***UDO Administrator***. No further extension shall be added except on approval of the Board of Adjustment. If such use or business is discontinued for a period of twelve (12) months, the ***special use permit*** shall expire. Any expiration as noted or any ***violation*** of the conditions stated on the permit shall be considered unlawful and the ***applicant*** will be required to submit a new special use application to the appropriate agencies for consideration and the previously approved ***special use permit*** shall become null and void.
- (2) All businesses operating under a ***special use permit*** are subject to annual inspection by the ***UDO Administrator***. Inspections will be carried out to ensure that the terms and conditions of the permit are being followed.

SECTION 4.06 REHEARINGS

When an application involving a quasi-judicial procedure/petition is denied by the Board of Adjustment, reapplication involving the same property, or portions of the same property, may not be submitted unless the petitioner can demonstrate a substantial change in the proposed use, conditions governing the use of the property, or conditions surrounding the property itself. The Board of Adjustment shall make the determination as to whether a rehearing is warranted in instances where a revised application is submitted.

SECTION 4.07 APPEALS OF QUASI-JUDICIAL DECISIONS

Any person or persons, jointly or severally, aggrieved by any quasi-judicial decision of the Board of Adjustment, any taxpayer, or any officer, department, board or bureau of the jurisdiction of this Ordinance may, within thirty (30) days after the filing of the decision in the office of said Board, but not thereafter, present to a court of competent jurisdiction a petition duly verified setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality, whereupon such decision of said Board shall be subject to review by certiorari as provided by law.

**ARTICLE 6.
ZONING DISTRICTS**

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ARTICLE 6. ZONING DISTRICTS

SECTION 6.01 PURPOSE STATEMENT

In accordance with the requirement of NCGS ~~160A-382~~160D-703 that ***zoning*** regulation be by districts, the Town, as shown on the Zoning Map, is hereby divided into the following districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

The purposes of establishing the following ***zoning*** districts are:

- § To implement adopted plans;
- § To promote public health, safety, and general welfare;
- § To provide for orderly growth and development;
- § To provide for the efficient use of resources;
- § To facilitate the adequate provision of services.

SECTION 6.02 INTERPRETATION

Zoning districts have uses specified as permitted by right, uses permitted with supplemental ***regulations***, and special uses. Detailed use tables are provided in Section 6.04 showing the uses allowed in each district. The following describes the processes of each of the categories that the uses are subject to:

- § **Permitted by Right:** Administrative review and approval subject to district provisions and other applicable requirements only.
- § **Permitted with Supplemental Regulations:** Administrative review and approval subject to district provisions, other applicable requirements, and supplemental ***regulations*** outlined in Article 7.
- § **Special Use Permit: UDO Administrator** review and recommendation, Board of Adjustment review and approval of ***Special Use Permit*** subject to district provisions, other applicable requirements, and conditions of approval.
- § **Special Use Permit with Supplemental Regulations: UDO Administrator** review and recommendation, Board of Adjustment review and approval of Special Use Permit subject to district provisions, other applicable requirements, conditions of approval, and supplemental regulations outlined in Article 7.

ARTICLE 6. ZONING DISTRICTS

SECTION 6.03 PRIMARY ZONING DISTRICTS

1. **Primary Zoning Districts.** For the purposes of this Ordinance, the Town of Sunset Beach, North Carolina is hereby divided into the following primary **zoning** districts:
 - (A) *MR-1 Mainland Residential District.* Primarily for residential use, with provisions for single-family residences, **planned residential development**, regulation championship **golf courses**, as well as customary and secondary uses.
 - (B) *MR-2 Mainland Residential District.* Primarily for residential use, with provisions for single-family residences, **planned residential development**, as well as customary and secondary uses.
 - (B) (1) *MR-2A Mainland Residential District.* Primarily for residential use with provisions for single-family residences, planned residential development, as well as customary and secondary uses.
 - (C) *MR-3 Mainland Multi-Family Residential District.* Exclusively for residential **development**, with provisions for single-family and multi-family **development** and customary and secondary uses.
 - (D) *MB-1 Mainland Business District.* Primarily for the conduct of retail trade with provisions for retail service-type establishments and with provisions for residential uses and convenience-type retail trade establishment.
 - (E) *MB-2 Mainland Mixed Use District.* Primarily established as the district in which the presence of residential and nonresidential complementary and integrated uses are located within the same complex or same building. Mixed use can also refer to different categories of nonresidential uses such as institutional, retail, and office within the same complex or buildings. The advantage of mixed uses is the promotion of architectural, diversity, compatibility and pedestrian scaled environments. Mixed-use neighborhood centers provide convenience goods and services for residents of the surrounding area.
 - (F) *BR-1 Beach Residential District.* Exclusively for residential uses, with provisions for **single-family** and **two-family dwellings**, as well as customary and secondary uses.
 - (H) *BR-2 Beach Residential District.* Exclusively for residential uses, with provisions for single-family residences, **planned residential development**, as well as customary and secondary uses.

ARTICLE 6. ZONING DISTRICTS

- (I) *BB-1 Beach Business District.* Primarily for general business use and with provisions for residential uses and convenience-type trade establishment for that area of the community bounded by the Intracoastal Waterway on the north and the Atlantic Ocean on the south, and so designated on the **zoning** map. In promoting the general purposes of this Ordinance, the specific intent of this section is to permit a wide range of uses within the district with **development** standards prescribed so as to reduce any adverse effects that might accrue from the locating near one another of uses normally considered to be incompatible.
- (J) *MH-1 **Manufactured Home**/Conventional Home Residential District.* Exclusively for residential uses, with provisions for **manufactured home** single-family and conventional home single-family residences, as well as customary and secondary uses.
- (K) *MH-2 **Manufactured Home** Residential District.* Exclusively for residential uses, with provision for double-wide **manufactured homes**, as well as customary and secondary uses.
- (L) *AF-1 Agricultural-Forestry District.* Primarily for production of agricultural and forestry products with provisions for single family homes, provided lots are one (1) acre minimum in size, and that all other requirements of MR-1 apply for the residential lots.
- (M) *RI-1 Recreational-Institutional District.* Exclusively for the use of government buildings, churches, schools, parks, and like uses.
- (N) *CR-1 Conservation Reserve District.* Primarily for the preservation of significant limited or irreplaceable areas which includes major **wetlands, open spaces**, undeveloped shorelines that are unique, fragile, or hazardous for **development**. Single-family, low-density residential uses may be permitted in upland areas.
- (O) *MUD Mixed Use District.* Creates the opportunity for the design of a mixture of land uses. Provides a mixed setting in which those activities associated with retail, office, accommodations, entertainment, residential, and **open space** uses may occur in a designed environment. The Mixed Use District should provide for an identifiable sense of place by providing for civic **open spaces** and **streets** whose presence is defined by buildings. The Mixed Use district should provide for an environment which is conducive to use by pedestrians.

ARTICLE 6. ZONING DISTRICTS

2. **Overlay Zoning Districts.** Overlay zoning is generally used when there is special public interest that does not coincide with the base zoning districts in a particular geographic area. It is a mapped area that may either impose additional restrictions or relax certain provisions of the underlying zoning district. For the purposes of this Ordinance, the Town of Sunset Beach, North Carolina has hereby established the following overlay zoning districts:
- A. **Gateway Corridor Overlay District.** This district is intended to protect and preserve the visual appearance of gateways into the Town and to promote traffic safety in those areas of the Town that are especially prone to heavy traffic.

For a detailed table of specified permitted/special uses in the above listed ***zoning*** district, see Section 6.04.

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SECTION 7.01 INTRODUCTION

The following supplemental **regulations** shall pertain to the various uses listed in the Table of Uses located in Article 6. If not otherwise listed, these **regulations** shall be applicable in all districts in which the individual uses are allowed.

For any use which requires the issuance of a **special use permit**, the supplemental use regulations listed herein may be in addition to any other fair and reasonable conditions placed on the use by the Board of Adjustment. The conditions may impose greater restrictions on a particular use than those which are listed herein.

SECTION 7.02 ACCESSORY STRUCTURES

Accessory structures may be allowed pursuant to the use tables provided in Section 6.04, provided that no **accessory structure** shall be occupied, leased, rented, or otherwise used for profit, income or gain. In addition, no **accessory structure** shall be constructed upon a **lot** until the construction of the main building has commenced. **Accessory structures** to residential uses shall include but not be limited to: **private** piers and swimming pools. No parcel may contain more than two (2) **accessory structures**. The combined square footage of the **accessory structures** shall not exceed ten percent (10%) of the total **lot** area. Refer to the specific zoning district development standards for siting requirements for **accessory structures** on pages 6-23 through 6-45.

SECTION 7.03 MODULAR HOMES/BUILDINGS

Modular homes/buildings may be allowed pursuant to the use tables provided in Section 6.04, subject to the following standards:

- (A) Must be anchored to prevent flotation, collapse, or lateral movement in accordance with the **Regulations** for Modular housing adopted by the Commissioner of Insurance pursuant to GS 143.15.
- (B) Modular must be labeled indicating compliance with the NC Building Code.
- (C) Off-frame modular only with an Engineered foundation.

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SECTION 7.04 DWELLING, SINGLE-FAMILY

Single-family ***dwelling***s may be allowed pursuant to the use tables provided in Section 6.04, subject to the following standards:

- (A) Single-family ***dwelling***s must be constructed on foundation walls of cast in-place concrete, solid masonry unit walls, a one (1) foot raised concrete slab, or pilings.
- (B) Residential ***dwelling***s constructed upon pilings may be closed in by ***breakaway walls*** or lattice ***structure*** in accordance with the Article 12, Part I (Flood Insurance Ordinance).
- (C) No building or ***streets*** shall be allowed or placed on areas designated as ***wetlands*** without NCDENR permit approval.
- (D) All sewer systems shall comply with the ***County*** Health Department ***regulations***.

SECTION 7.05 DWELLINGS, MANUFACTURED

Manufactured homes may be allowed pursuant to the use tables provided in Section 6.04, subject to the following:

- (A) ~~No ***manufactured home*** older than eight (8) years from the date of manufacture shall be placed on a ***lot*** in the district.~~ All ***manufactured homes*** shall comply will the U.S. Department of Housing and Urban Development Codes and other applicable North Carolina Building Codes.
- (B) No ***accessory structure*** shall be rented or occupied for gain. No ***accessory structure*** shall be constructed or placed upon a ***lot*** until the placement of the ***manufactured home*** has commenced. No parcel may contain more than two (2) ***accessory structures***. The combined square footage of the ***accessory structures*** shall not exceed ten percent (10%) of the total ***lot*** area.

SECTION 7.06 DWELLING, MULTI-FAMILY

Multi-family dwelling units may be allowed pursuant to the use tables provided in Section 6.04, subject to the following provisions:

- (A) *Common Areas.*

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- (1) All **multi-family** residential **dwelling** projects shall contain commonly owned land equal in area to thirty-five percent (35%) of the entire area being developed under one central **development** plan. Common areas shall be held in nonprofit corporate ownership by the owners of **lots** or **dwelling** units within the project. The title to the common areas shall be preserved to the perpetual benefit of the private properties in the **development** project and shall be restricted against private ownership for any other purpose. As part of the **development** plan, improvements may be made within the common areas provided that the maximum coverage of the improvements shall not exceed fifty percent (50%) of the entire common property; provided that, the improvements shall be for the use of the owners of property within the multi-family project. The developer of any multi-family residential project shall record a declaration of covenants and restrictions or unit ownership declaration as may be required by law which will govern the owners management and maintenance of the common areas. A copy of the recorded declaration of covenants and restrictions or unit ownership declaration shall be filed with the Town at the time of recording.
 - (2) Thirty-five percent (35%) of the total area of the tract shall be common **open space**. Common **open space** is land not covered by buildings or **accessory structures** which are accessible and available to all occupants of **dwelling** units in the multi-family residential **development**. An area shall be deemed accessible where the ownership is held in common and where it is connected to the units by pedestrian or vehicular access.
 - (3) Fifty percent (50%) of the common **open spaces** must be designed for passive use, including, but not limited to walking, jogging, hiking, wildlife, parking and similar uses.
- (B) **Public Access and Easements.** All units in a multi-family **development** project shall have adequate **access** to a public **street** which will allow adequate community services. **Easements** over the common areas for access, ingress and egress from and to the public **streets** and walkways and **easements** for the enjoyment of common areas as well as for parking shall be provided to each owner of a property within the multi-family **development**.
- (C) **Utilities.**
- (1) Utilities, public water, all **streets**, parking areas and underground electrical and telephone service must be provided in all multi-family projects.

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- (2) Adequate provisions for the collection and **disposal** of garbage and refuse shall be provided in a manner that the multi-family residential **development** will be maintained in a clean and orderly appearance.
- (3) Suitable plans for water service, **disposal** of sanitary sewage and **storm drainage** shall be provided. All systems shall meet requirements of the **County** Health Department as well. Public water is required in the multi-family residential **development**.
- (D) *Site*. No building or **streets** shall be allowed or placed on areas designated as **wetlands**, unless otherwise specified in a State or Federal permit.

SECTION 7.07 HOME OCCUPATIONS

Home occupations, as defined in Appendix A, and a small day care home registered by the State, may be allowed pursuant to the use tables provided in Section 6.04, subject to all its standards and inspections.

SECTION 7.08 MODEL HOME/UNIT

- (A) A real estate office associated with a particular single-family **development** may be located **temporarily** in a **model home** in that single-family **development**. In this instance, temporarily means a period not to exceed five (5) years or when eighty percent (80%) of the units in the **development** are sold, whichever comes first.
- (B) A real estate sales/management office associated with a particular multi-family **development** or a combined multi-family/single-family **development** may be located in one of the multi-family units.

SECTION 7.09 FENCES

- (A) **Subdivisions**. A privacy **fence** for a single-family **subdivision** may be allowed provided the following requirements are met:
 - (1) The **fence** shall extend along and be set back at least three (3) feet from the boundary of the **subdivision** common with several other zoning districts.
 - (2) Any height adjustments required by the terrain shall be made by vertical steps.

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- (3) Both sides of the **fence** shall be equal in construction and appearance.
 - (4) The **fence** shall be uniform in design and constructed with masonry pillars and fencing of painted, treated wood. The top of the wood **fence** shall be not more than eight (8) feet above the natural elevation of the ground. The top of the pillars shall extend not more than six (6) inches above the wood **fence**, except where height adjustments are made.
 - (5) The design and construction details shall be reviewed and approved by the **Planning Board** prior to construction.
 - (6) Maintenance responsibility for the **fence** with **easement** rights shall be specified in the deed covenants of the **subdivision**.
 - (7) In BR-2 zoning a privacy fence for a single-family home subdivision shall be allowed as an entrance gate as follows:
 - a) The street or access is privately owned and maintained.
 - b) No future connectivity is possible to adjacent properties.
 - c) The gate is no taller than 4 feet in height.
 - d) Perpetual access is granted to the Town via a means agreed upon by the neighborhood and local government.
- (B) *Single-Family Residential*. In all beach residential zoning districts, a fence or wall may be constructed not to exceed four (4) feet in height from natural ground level. In the BR-1 district, fence and walls cannot extend beyond more than one hundred fifty (150) feet from the property line abutting the right-of-way of Main Street and may not be located in the rear yard or along Main Street. In all mainland residential zoning districts, a fence or wall may be constructed not to exceed six (6) feet in height from natural ground level. A fence or wall may be constructed on the property line subject to the following conditions in all zoning districts:
- (1) The **fence** or wall does not restrict the **ground level** view of any **adjacent property** facing the ocean, waterway, marsh, lakes, or **golf course**. In accordance with this provision, a fence installed facing the ocean, waterway, marsh, lakes, or golf course may not exceed four (4) feet in height and shall be at least fifty (50) percent transparent.
 - (2) Except as set forth in subdivision (4) below, **fences** or walls are limited to **rear** and **side yards**; however, **fences** or walls cannot be located in a **side yard abutting**

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a **street** right-of-way on a **corner lot**. Exception: In a **side yard abutting** a **street** right-of-way on a **corner lot**, open **fences** are allowed in the buildable area of the **lot**, but are limited to four (4) feet in height and shall be at least thirty-five percent (35%) open.

- (3) Side fences may be constructed up to two (2) feet from the street right-of-way. No side fence shall exceed four feet in height within fifteen feet of any public or private street right-of-way. Side fences on corner lots must conform with subdivision (2) above.
 - (4) A **fence** is permitted within the **front yard** when the distance from the front of the house to the front property line is a minimum of two hundred (200) feet. The **fence** may not encroach into the fifty (50) foot **front yard setback**.
 - (5) Construction above ground or berm level shall be brick, decorative cement block, stucco, decorative wrought iron, cedar, redwood or treated wood (excluding any type of plywood or lattice sheets), decorative vinyl, chain link, or any combination. All other materials, including barbed wire, concertina wire, electrified fencing and chicken wire or other types of woven wire fencing are not permitted as either primary or secondary fencing materials.
 - (6) Both sides of a **fence** or wall must be equal in construction and appearance or the good side must be face outward.
 - (7) Finials are not counted into the height of the **fence**; however, finials cannot exceed twelve inches (12") in height. Finials are the crowning ornaments on a **fence**.
 - (8) Chain link fencing is allowed in the rear yard but may not extend past the front footprint of the principal structure. Chain link fencing should be constructed of a material or coated in a material that is weather resistant and prevents rusting.
- (C) Nonresidential. A nonresidential fence may be installed as part of a buffer strip, in accordance with Article 10, when a nonresidential use is developed immediately adjacent to an existing residential use or zoning district. A nonresidential fence or wall may be constructed on the property line subject to the following conditions:
- (1) Fences or walls shall be uniform in design, construction, and material. The fence or wall shall be brick, vinyl, decorative cement block, stucco, maintenance-free metal, or treated wood (excluding any type of plywood or lattice sheets) or any combination. Height shall not exceed six feet. Both sides of a fence or wall must be

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equal in construction and appearance.

- (2) Fences or walls shall not restrict the ground level view of any adjacent property facing the ocean, waterway, marsh, lakes, or golf course. In accordance with this provision, a fence installed facing the ocean, waterway, marsh, lakes, or golf course may not exceed four (4) feet in height and shall be at least fifty (50) percent transparent.
- (3) Fences and walls are limited to rear and side yards; however, fences or walls cannot be located in a side yard abutting a street right-of-way on a corner lot. Exception: In a side yard abutting a street right-of-way on a corner lot, open fences are allowed in the buildable area of the lot, but are limited to four (4) feet in height and shall be at least thirty-five percent (35%) open.
- (4) Side fences or walls shall be placed a minimum of five (5) feet behind the front footprint of the structure. However, if circumstances exist related to asymmetrical lot lines, lot recombination, or unusual property line configuration relative to the location of the existing primary structure, the Planning Board may modify this standard upon review and approval of a sketch plan. When a modification is requested, all property owners immediately adjacent to the proposed fence shall be notified of the meeting in which the request will be heard by regular mail. The Planning Board should consider public safety, interference with sight visibility at intersections, harmony with the surrounding properties, and maintaining the spirit of this requirement when making any modification. Any fence modification shall not permit encroachment into the required front yard setback.
- (5) Living fences are permitted and encouraged. These are open support structures that allow vegetation to grow on, through or as part of the structure as support whereby the resulting buffer is a mature, vegetative wall or screen with no readily visible portion of the underlying structure is shown. The vegetation shall be installed to a minimum depth of five (5) feet and such that seventy-five percent (75%) visual opacity within one (1) year of planting is attained and remain in such condition throughout the year.

SECTION 7.10 PRIVACY WALLS NOT TO EXCEED SIX (6) FEET IN HEIGHT

Privacy walls not to exceed six (6) feet in height may be specified in the design criteria of a single-family **subdivision** provided the following requirements are met:

- (A) Privacy wall design criteria must be specified prior to the start of the **subdivision** construction.
- (B) **Subdivision** will contain single-family units.

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- (C) Privacy walls shall be placed a minimum of thirty (30) feet behind the required **front yard setback**.
- (D) Construction shall be brick, decorative cement block, stucco, poured concrete, decorative wrought iron, or a combination of these materials.
- (E) All walls in the **subdivision** will have the same design, construction, and material.
- (F) **Side yard** privacy walls **abutting** a **street** will be permitted only when the first three (3) feet in height are hidden by a landscaped berm.

SECTION 7.11 PRIVATE COMMUNITY CENTERS

Private community centers may be allowed within a **subdivision** pursuant to the use tables provided in Section 6.04, subject to the following standards:

- (A) The POA, HOA Associations, etc., covenants deal with the operations and maintenance of the common property.
- (B) That it is used exclusively by the **subdivision** owners and their guests. No commercial rentals are allowed.
- (C) That the common area utilized for such activities shall be contained within the **subdivision**. If the **subdivision** is divided by a major thoroughfare or public utility right-of-way, ninety percent (90%) of the **subdivision lots** shall be located on the side where the **community center** is proposed.
- (D) A **site plan** of the parking, lighting, **landscaping**, trash removal and signage shall be in accordance with the Ordinances of the Town of Sunset Beach and approved by the **Planning Board** and may be subject to additional requirements depending upon each individual site.
- (E) Building must blend-in with the **subdivision**'s surrounding architectural designs.

SECTION 7.12 REAL ESTATE SALES/MANAGEMENT OFFICE IN SEPARATE BUILDING

A real estate sales/management office associated with a particular **development** on contiguous parcels of land under common ownership may be located in a separate building compatible in

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appearance with the other units in the **development**, provided the following requirements are met:

- (A) A master plan has been submitted to and reviewed by the **Planning Board**. This master plan must indicate the boundaries of the total parcel of land to be included in the particular **development** but only the details of the first phase of the **development** need be submitted.
- (B) The building that will house the sales/management office must be located on the parcel of land indicated in the master plan and its location must be shown in the master plan.
- (C) The **lot** upon which the sales/management office is located shall be landscaped to conform to the general **landscaping** of the total **development** and plantings of sufficient height and density shall be provided along any **abutting** residential properties to provide visual screening.
- (D) Off-street parking facilities shall be provided, as specified in Article 9, Part II, for general or professional offices.
- (E) One (1) **sign** advertising the real estate sales/management office will be permitted, as provided in Article 11.
- (F) Any significant deviation from the master plan without prior approval of the Board of Adjustment may result in the revocation of the **special use permit**.
- (G) Any change in ownership of the sales/management office shall require review and approval of the **special use permit** by the Board of Adjustment.

SECTION 7.13 RESIDENTIAL UNITS

Residential units may be allowed pursuant to the use tables provided in Section 6.04, provided they adhere to the following requirements:

- (A) The building shall meet the minimum **setback** requirements of the MB-2 district.
- (B) In addition to the required off-street parking for the principal use, two (2) off-street parking spaces shall be provided for the **dwelling** unit.

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- (C) The attached **dwelling** unit shall be located totally above the ground floor of the principal use so as not to interrupt the commercial low density frontage.

SECTION 7.14 SWIMMING POOLS/HOT TUBS

(1) **Swimming pools** shall be subject to the following requirements:

- (A) A **swimming pool** may be constructed as an **accessory structure** provided it is located in the buildable portion of the **lot**.
- (B) The **swimming pool** site shall be provided with adequate water and wastewater facilities, shall be designed so that drainage from surrounding areas will not normally enter the pool enclosure, and shall be equipped with adequate power facilities which do not present a hazard to the bathers. The pool shall be located so that no broken overhead electrical wiring may fall within twenty-five (25) feet of the pool surface.
- (C) All outdoor residential **swimming pools** shall be enclosed by a **fence** or other equivalent type barrier as required by, and in accordance with, the North Carolina State Building Code, as amended. All residential pool enclosures shall be completely installed within thirty (30) days of the pool completion and before the pool is filled with water.

(2) **Hot Tubs** shall be subject to the following requirements:

- (A) A **hot tub** may be constructed as an **accessory use** provided it is located in the buildable portion of the **lot**.
- (B) **Hot tubs** must be placed or constructed to comply with the Town's Flood Damage Prevention Ordinance (Article 12) and any other local, State or Federal requirements, as applicable.
- (C) Placement of outdoor **hot tubs** on island lots shall not be such that the **structure** is resting on the ground and shall:
- i. only be placed on an approved, above-ground deck attached to the principle **structure** in compliance with Article 12 of this ordinance; or
 - ii. be mounted into the ground whereby the top of the **hot tub** and any surrounding decking is at grade.
- (D) An individual, outdoor **hot tub** shall not have a water capacity larger than 500 gallons for individual residential **lots** on the island that contain up to four (4)

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residential units. This requirement applies to the island only. Documentation certifying the gallon capacity of the **hot tub** shall be provided to the Town prior to placement or construction.

- (E) Exemptions: Any **hot tub** that is placed inside the enclosed, heated square footage of a principle **structure** is exempt from the standards of Section (C) and (D).
- (F) All outdoor residential **hot tubs** shall be enclosed by a **fence** or other equivalent type barrier as required by, and in accordance with, the North Carolina State Building Code, as amended. All **hot tub** enclosures shall be completely installed within thirty (30) days of the **hot tub** installation and before the pool is filled with water.

(Am. Ord. 2/1/16)

SECTION 7.15 ACCESSORY STRUCTURES TO COMMERCIAL USES

Accessory structures to commercial uses may be allowed pursuant to the use tables provided in Section 6.04, subject to the following requirements:

- (A) No **accessory structure** shall be constructed upon a **lot** until the construction of the main building has commenced.
- (B) **Accessory structures** as defined shall include but not be limited to storage buildings and **swimming pools**.
- (C) No parcel may contain more than two (2) **accessory structures**. The combined square footage of the **accessory structures** shall not exceed ten percent (10%) of the total **lot** area.
- (D) Approved screening shall be required to shield outside storage areas per requirements in Article 10.
- (E) **Accessory structures** shall be constructed in the buildable area of the **lot**.
- (F) Construction of **accessory structures** shall conform to all state codes, FEMA **regulations**, **CAMA**, and this UDO.
- (G) All dumpsters must be screened per Article 10, Landscape & Buffering Requirements.

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SECTION 7.16 ADULT AND SEXUALLY ORIENTED BUSINESSES

Adult and sexually oriented businesses, including ***massage businesses*** (except licensed ***massage*** therapists within the normal course of their professional practice), body piercing operations, tattoo parlors, ***electronic gaming operations***, and bingo parlors may be allowed pursuant to the use tables provided in Section 6.04, subject to the following requirements:

- (A) No ***adult or sexually oriented business***, including ***massage businesses***, shall be permitted in any building:
- (1) located within fifteen hundred (1,500) feet in any direction from any building used as a ***dwelling***.
 - (2) located within fifteen hundred (1,500) feet in any direction from a building in which an ***adult business*** or ***sexually oriented business*** is located.
 - (3) located within fifteen hundred (1,500) feet in any direction from a building used as a church, synagogue, other house of worship, or cemeteries.
 - (4) located within fifteen hundred (1,500) feet in any direction from a building used as a public school or as a state licensed ***day care facility***.
 - (5) located within fifteen hundred (1,500) feet in any direction from any ***lot*** or parcel on which a public playground, public ***swimming pool***, or public park is located.
 - (6) located within fifteen hundred (1,500) feet of any publicly owned or operated facility.
- (B) No more than one ***adult or sexually oriented business*** establishment shall be located in the same building or ***structure*** or on the same ***lot***.
- (C) ***Adult and/or sexually oriented businesses*** shall be located only in a MB-1 zoning district and shall be established by special use upon approval of the Board of Adjustment.
- (D) Except for ***signs*** as permitted in Article 11, promotional displays and presentations shall not be visible to the public from sidewalks, walkways, or ***streets***.
- (E) All minimum ***lot*** requirements of the MB-1 zoning district shall be met.

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- (F) Hours of operation shall be limited to the hours of 9:00 AM to 12:00 AM.
- (G) No person under the age of eighteen (18) shall be permitted within **adult and/or sexually oriented businesses**.
- (H) Within permitted **electronic gaming operations**, no more than ten (10) gaming machines shall be allowed.
- (I) Any **adult business** and/or **sexually oriented business** lawfully operating as of the effective date of this Ordinance that is in **violation** of any provision of this Ordinance shall be deemed a **nonconforming use**. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two (2) years. The **nonconforming uses** shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a **nonconforming use** is discontinued for a period one hundred eighty (180) days or more it may not be reestablished. If two (2) or more **adult businesses** or **sexually oriented adult businesses** are within fifteen hundred (1,500) feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and the later established business shall be considered nonconforming.
- (J) An **adult business** or **sexually oriented adult business** lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a **dwelling**, church, house of worship, **day care facility**, school, playground, public **swimming pool**, or public park.
- (K) **Sexually oriented businesses** shall be subject to the following additional requirements:
- (1) No employee, dancer, or entertainer shall perform live entertainment within six (6) feet of any patron, nor shall any patron experience live entertainment within six (6) feet of an employee, dancer, or entertainer.
 - (2) No patron shall personally pay or personally give a gratuity to any entertainer. Gratuities may be placed in one common container placed at a location away from any dancer or entertainer at all times.
 - (3) Establishment with live entertainment shall conspicuously post a **sign** that advises patrons that gratuities paid personally to entertainers or dancers are prohibited.

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- (4) If alcohol is served, all patrons, members, employees, entertainers, dancers, or any guest of the establishment shall have attained the age of twenty-one (21) years.
 - (5) No persons dispensing, serving or providing any beverage or food may expose any **specified anatomical areas**, as defined by State law.
- (L) **Body piercing and tattoo parlors** shall be subject to the following additional requirements:
- (1) No person shall engage in tattooing or body piercing without first obtaining a tattooing or body piercing permit from the Department of Health and Human Services.
 - (2) Licensed physicians, as well as physician assistants and nurse practitioners working under the supervision of a licensed physician, performing tattooing or body piercing within the normal course of their professional practice are exempt from this requirement.

SECTION 7.17 AGRICULTURE, HORTICULTURE, AND FORESTRY

Agriculture, horticulture, and forestry may be allowed pursuant to the use tables provided in Section 6.04, provided that no greenhouse heating plant or shed, farm building, or other accessory building normal to agriculture and forestry production shall be operated or allowed within thirty (30) feet of any property line which is not a commercial use.

SECTION 7.18 CHURCHES AND CEMETERIES

Churches and cemeteries may be allowed pursuant to the use tables provided in Section 6.04, provided that **landscaping** and **buffer** are provided, as required by Article 10.

SECTION 7.19 CONTINUING CARE COMMUNITY

A **Continuing Care Community** (CCC) may be allowed pursuant to the use tables provided in Section 6.04, subject to the following:

- (A) Minimum land area required for a **Continuing Care Community** is ten (10) acres.
- (B) The CCC may consist of a mixture of detached single residential, **duplex, multi-family dwellings, congregate care facility** and nursing care.

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- (C) All **structures** are limited in occupancy to persons aged sixty (60) years old or older, the physically **handicapped** and their spouses, except for rooms or units occupied by resident staff personnel performing duties directly related to the operation of the facility.
- (D) The CCC must be State-licensed and provide a minimum of two (2) levels of services.
- (E) **Structures** shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.
- (F) Paved walkways shall be provided between buildings and all common facilities such as dining halls and recreation centers.
- (G) All **structures** except single-family residence within the **Continuing Care Community** are required to be set back from the CCC boundary line a minimum of forty (40) feet. Single-family residences shall be set back a minimum of twenty-five (25) feet.
- (H) Multi-family **structures, congregate** care and nursing units, shall be required to have a **setback** of forty (40) feet from the single-family **structures**.
- (I) Minimum required floor space for detached single-family **structure**: one thousand (1,000) square feet.
- (J) Maximum number of **bedrooms** for detached single-family **structure**: three (3).
- (K) Minimum required floor space per **multi-family dwelling** unit: seven hundred fifty (750) square feet.
- (L) Maximum **height** of detached single-family **structure**: thirty-five (35) feet .
- (M) The Board of Adjustment may set out additional conditions on a **special use permit**.

SECTION 7.20 ELECTRIC UTILITY SUBSTATIONS

Electric utility substations may be allowed pursuant to the use tables provided in Section 6.04, provided the substation is located outside of the public right-of-way. The stations may not create excessive noise or light or possess other objectionable characteristics that may be detrimental to surrounding uses or to other uses permitted in the district. The Board of Adjustment may impose any reasonable conditions on the use that may be required to protect surrounding properties and

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other uses within the district. The station must be screened according to the requirements of Article 10.

SECTION 7.21 ENTERTAINMENT AND AMUSEMENT TYPE BUSINESSES

Entertainment and amusement types of business operations with five (5) or more entertainment devices, including pool, billiard, or similar tables; pinball machines; or mechanical or electronic amusement devices, which are or may be operated on the payment of money, trade token, or slug, whether directly or indirectly, and which operate or may be operated by retail patrons as a game or contest of skill or amusement, may be allowed pursuant to the use tables provided in Section 6.04, subject to the following requirements:

- (A) No amusement device shall contain any automatic payoff device for the return of money, trade, token, or slug and no provisions whatever shall be made for the return of money to the player. However, this shall not be construed as to prohibit the awarding of free play of the game or device. An exception for a pay off will be permitted and shall apply exclusively to ***video gaming machines***, as permitted and defined in GS ' 14-306.1 and as regulated herein.
- (B) The hours of operation shall be limited to 9:00 a.m. to 12:00 a.m. each day or as approved by the Board of Adjustment.
- (C) No amusement device shall be operated at any place at which there is permitted on the ***premises*** any gambling or sale or use of any racing, football, or other sport or parlay cards.
- (D) No owner, operator or employee of a place of amusement shall:
 - (1) Permit the place of business to become disorderly; or
 - (2) Employ any person who has been convicted of a felony or charge of moral turpitude.
- (E) Any ***entertainment and amusement business*** shall be operated so that a clear view of all of the amusement devices may be had from the entrance to the amusement area.
- (F) The owner or an employee at least eighteen (18) years of age must be in the area(s) at all times to provide adequate supervision of the operation.

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- (G) Sound systems or coin operated music systems must be operated in compliance with the Town's noise **regulations**.
- (H) No alcoholic beverages shall be allowed on the **premises**.
- (I) A bicycle rack(s) must be provided for at least six (6) bicycles.
- (J) Evidence of adequate off-street parking shall be submitted to the Board of Adjustment.
- (K) No **entertainment or amusement business** may operate within a radius of seven hundred (700) feet of another similar business.
- (L) Key controlled toilet facilities shall be provided.
- (M) Any **entertainment and amusement types of business** lawfully operating as of the effective date of this Ordinance that is in **violation** of any provision of this Ordinance shall be deemed a **nonconforming use**. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two (2) years. The **nonconforming uses** shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a **nonconforming use** is discontinued for a period of one hundred eighty (180) days or more it may not be reestablished.

SECTION 7.22 FISHING PIERS

Fishing piers and services customarily provided to the public may be allowed pursuant to the use tables provided in Section 6.04, such as:

- (A) Arcade types of devices;
- (B) Food services;
- (C) **Parking lots**;
- (D) Serve alcohol;
- (E) Provide bathrooms;
- (F) Provide or sell fishing permits.

SECTION 7.23 GOLF COURSES

Golf courses may be allowed pursuant to the use tables provided in Section 6.04, subject to the following:

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- (A) Regulation championship ***golf courses*** as defined by the US Professional Golfers Association and having a minimum length of six thousand (6,000) yards, which may be open to the public on a membership or fee basis and such use shall not be deemed commercial in nature in ***violation*** of this Ordinance.
- (B) The ***golf course*** may provide services customarily provided for golfers and tennis players. In connection with ***golf courses*** permitted pursuant to this section, the following ***regulations*** shall apply.
- (1) The golf clubhouse shall be set back a minimum of one hundred (100) feet from any residential ***street*** and one hundred (100) feet from any residential ***lot line***.
 - (2) The golf clubhouse may house a pro shop, bar, and dining area as well as assembly rooms and dressing areas. The clubhouse may provide services customarily provided for golfers, tennis players, and the general public using the facilities.
 - (3) ***Parking lots*** shall be located no less than twenty-five (25) feet from any residential ***lot*** and shall be adequately screened to minimize noise and their visibility from the ***street*** and residential properties.
 - (4) Tennis courts are permitted as an ***accessory use***. Location shall not, by way of noise, visibility or otherwise, affect the residential area where they are located.
 - (5) Compliance with all provisions of this Ordinance shall be met by the ***applicant*** prior to the issuance of a permit to begin construction.
 - (6) One advertising ***structure*** advertising the ***golf course*** and related services as permitted can be located on the ***premises*** at the major entrance. Any ***sign*** and mounting shall not exceed ten (10) feet in height and a total area of one hundred (100) square feet; ***illuminated*** only by indirect lighting; and further restricted as specified in Article 11.
 - (7) Maintenance facility for ***golf courses***. The ***site plan*** shall be reviewed and approved by the ***Planning Board*** prior to the issuance of a building permit to ensure that the surrounding areas are protected.

SECTION 7.24 MINIATURE GOLF COURSES

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Miniature golf courses may be allowed pursuant to the use tables provided in Section 6.04, provided they are developed and operated within the requirements specified below:

- (A) Minimum of one (1) acre.
- (B) Minimum off-street parking: two (2) spaces per hole.
- (C) Unobtrusive lighting and no flashing, intermittent, moving, or animated lights.
- (D) Approved **landscaping** plan of course and **parking lot**.
- (E) **Height** of **structures** and course terrain limited to sixteen (16) feet above original **ground level**.
- (F) No course attractions that emit smoke or steam.
- (G) No animated characters or animals (inanimate life size replicas of birds and animals indigenous to the area are permitted).
- (H) Restroom facilities.
- (I) If a sound system is used, it must be operated at a low level so as not to disturb or annoy adjacent residents.
- (J) Hours of operation shall be limited to 9:00 am to 12:00 am each day or as approved by the Board of Adjustment.

SECTION 7.25 NEWSRACK

Newsracks, including informational racks, may be allowed pursuant to the use tables provided in Section 6.04, subject to the following requirements:

- (A) May not project onto, into, or over any part of a roadway, or rest wholly or in part upon, along, or over any portion of a roadway, or rest on a sidewalk.
- (B) Must be adjacent and parallel to the wall of a building or **structure** and not more than six (6) inches from the wall, unless the **UDO Administrator** determines that placement near a building is not suitable, and authorizes alternative placement.

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- (C) Must not cause a significant risk of injury to persons or property and will not interfere with the passage of pedestrians.
- (D) Maximum of six (6) racks grouped together at any one location. Each group must be located one hundred twenty (120) feet from any other group or individual rack.
- (E) Each rack shall be maintained in a clean and neat condition and in good repair at all times.
- (F) Racks shall carry no advertising except the name of the newspaper or periodical being dispensed.

SECTION 7.26 OUTDOOR DISPLAY AND STORAGE OF MERCHANDISE

Limited display and storage of merchandise on the outside, but not where the display and/or storage of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition, may be allowed pursuant to the use tables provided in Section 6.04, subject to the following requirements:

- (A) All outdoor display of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes, or ***parking lots***.
- (B) The area used for outdoor display and storage shall be limited to no more than one-half the length of the storefront. In the case of a ***shopping center***, the storefront shall include the entire frontage of the ***shopping center***, meaning that the total amount of display for all the in-line tenants combined shall not exceed fifty (50) percent of the aggregate storefront of the overall ***shopping center***.
- (C) No merchandise shall be attached to a building's wall surface.
- (D) Displays left out overnight are prohibited.
- (E) At least five (5) feet along the ***parking lot*** side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that pedestrians and handicap pedestrians do not have to enter the ***parking lot***, loading zone, or drive aisle to walk around the display and storage area. Handicap ramps and ***landscaping*** shall not be located within the five (5) foot clear pedestrian area.
- (F) The area of outdoor display of merchandise shall not encompass the width of the entrance and/or exit doors to the facility as projected straight out from the facility. For example, if

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the width of the entrance and/or exit doors is ten (10) feet, then there shall be at least a ten (10) foot clearance from the doors as projected straight out and away from the facility.

The displays shall not obstruct the view of pedestrians and handicap pedestrians entering or exiting while in this ten (10) foot corridor from vehicles in the ***parking lot*** or loading zone.

SECTION 7.27 PACKAGE TREATMENT PLANTS

Package treatment plants may be allowed pursuant to the use tables provided in Section 6.04, subject to the following requirements:

- (A) Minimum ***lot*** of twenty thousand (20,000) square feet.
- (B) Security ***fence*** installed around the perimeter of the ***lot***.
- (C) Installed ***buffer*** around perimeter of the ***lot*** that meets the provisions of Article 10.
- (D) Approval by the State Division of Water Quality.

SECTION 7.28 PUBLIC UTILITY SUBSTATIONS

Public utility substations such as water tanks, pumping stations, treatment plants, and electric, gas, oil pipelines may be allowed pursuant to the use tables provided in Section 6.04, subject to the following requirements:

- (A) ***Buffer*** strips per Article 10 shall be provided along side and rear property lines, except that only one (1) row of planted material will be required to a minimum depth of five (5) feet.
- (B) Any objectionable odors, noise, and/or lighting will be reduced to all reasonable extent.
- (C) No vehicles or materials shall be stored on site, except during construction and regular maintenance of facility.

SECTION 7.29 STORAGE FACILITY

Storage facilities may be allowed pursuant to the use tables provided in Section 6.04, subject to the following requirements:

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- (A) May not include the establishment of self-service storage units.
- (B) Must be **buffered** by a berm planted with trees or shrubs and the like so as not to be seen from any Town **street** or residence.
- (C) Must be **fenced** for security.
- (D) Must not be used to store junk vehicles including, but not limited to, junk boats, RVs, **campers**, and the like.

SECTION 7.30 TELECOMMUNICATION TOWERS

Telecommunication towers may be allowed pursuant to the use tables provided in Section 6.04, subject to the following:

- (A) **Towers** on the ground: greater than thirty-five (35) feet in height and less than two hundred (200) feet in height.
- (B) When feasible, telecommunications equipment shall be constructed and installed in a manner that will blend into the tree canopy.
- (C) A **monopole** or a self-supporting lattice **tower** shall be set back a minimum distance of five (5) feet from **adjacent property** lines. A **monopole** or self-supporting lattice **tower** shall also be set back from any residential property lines fifty (50) feet.
- (D) All other **towers** shall be set back from **adjacent property** lines and from any occupied residential **dwelling** a distance either equal to the height of the **tower** or equal to the fall zone/distance of the **tower** as certified by a licensed and certified structural engineer.
- (E) The **setbacks** set forth in divisions (A) and (B) above shall be measured from the base of the **tower**. Accessory equipment, support **structures, structures**, and fencing shall meet the standard building codes and Department of Transportation **setbacks** requirements.
- (F) The **setbacks** required in divisions (A) through (C) above may be reduced to a distance not less than fifty (50) feet if the **applicant/owner** receives an **easement** for the area within the otherwise applicable **setback** distance from the **adjacent property** owner whose property line would otherwise be crossed by the **setback** distance set forth above.
- (G) **Landscaping** requirements for **towers** on the ground:

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- (1) The base of the **tower** and any accessory equipment and **structures** shall be surrounded by an effective screening device, which is at least eight (8) feet tall. Effective screening devices shall consist of a **fence** and an opaque evergreen hedge. Plant material for hedges shall be located on the exterior of the fencing.
 - (2) Required screening devices and plant material shall be contained within the **tower** site, whether it be leased or owned by the **tower** owner. Maintenance of screening shall be the responsibility of the **tower** owner. Screening shall be maintained in accordance with the approved **site plan**.
 - (3) Plant material is required to be a minimum of sixty (60) inches tall at planting with an on-center spacing to provide an opaque screen within two (2) years.
- (H) **Collocation:**
- (1) All **towers** shall be constructed to accommodate **collocation**.
 - (2) The **applicant** must make such space available on commercially reasonable terms.
 - (3) Any application for approval of a new **tower** must include evidence that the **applicant** has investigated the possibilities for locating the proposed facilities on an existing **tower** and that the proposed equipment cannot be accommodated on an existing **tower** due to one or more of the following reasons:
 - (a) The existing or approved **towers** do not have space on which the equipment can be placed so it can function effectively and reasonably in parity with similar existing or approved equipment.
 - (b) No **tower** or other suitable facility exists in an area where the equipment to be placed on the **tower** will function in its intended manner.
 - (c) The planned equipment would cause radio frequency interference with other existing or planned equipment for these **towers**, and the interference cannot be prevented at a reasonable cost.
- (I) **Tower** proximity: No **tower** on the ground more than thirty-five (35) feet in height shall be located closer than two thousand (2,000) feet from any other **tower** on the ground more

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than thirty-five (35) feet in height which was constructed after the effective date of this Ordinance.

(J) **Tower** modification:

(1) The owner of the **tower** must seek a building permit if any modification or height or any significant change in antenna load that is not part of the original design specification transpires during the life of the **tower**.

(2) A **tower** must be re-certified with a sealed certification by a licensed structural engineer for a new use and antenna load. This review must include the re-certification of the foundation.

(K) Buildings associated with the **tower** may not be used as an employment center. This provision does not prohibit the periodic **maintenance** or periodic monitoring of the **tower** facility.

(L) No advertising **sign** or logo is permitted on any **tower** or antenna.

(M) Lighting:

(1) The lighting of the **tower** must not be less than the minimum standards of the Federal Aviation Administration (FAA) for red obstruction lighting system contained in Advisory Circular No. 70/7460-1F dated September 27, 1978, as the same may be amended.

(2) The **tower** lighting shall be muffled so that no audible sounds can be heard beyond the distance of the **setback** requirements applicable under this Ordinance.

(3) The **applicant** shall present certification that the lighting is designed to meet this requirement when submitting an application for a permit.

(N) ANSI Standards (Electronic magnetic Fore-EMF):

(1) Any communications antennas or other equipment placed on **towers** shall not exceed the emission output levels specified by federally approved levels or the American National Standards Institute (ANSI) Standards for power density, whichever provides the stricter requirements.

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- (2) The **tower** owner shall provide documentation indicating that the power output levels do not exceed federal approved levels or American National Standard institute (ANSI) requirements.
- (O) Demonstrated need for **tower** and height:
- (1) All **applicants** seeking approval to construct a **tower** shall submit a written affidavit that the construction or placement of such **structure** meets provisions of the Telecommunications Act of 1996, the National Environmental Policy Act of 1996, FCC Rules, and all other applicable federal, state, and local laws.
- (2) All applications for approval of a new **telecommunication tower** must be accompanied by evidence from an FCC licensed commercial mobile radio service provider that the **tower** is currently needed to support its antennas and must specify a height needed to serve the area around the **tower** immediately after construction.
- (P) Abandonment:
- (1) If a **tower** is not used for a period of six (6) months or more, the **tower** owner will be notified by certified mail that the **tower** will be removed by the owner within ninety (90) days. **Towers** which are not maintained by the owner will be removed by the owner within ninety (90) days.
- (2) To assure the removal of **towers** which do not meet the requirements for use or **maintenance**, a statement of financial responsibility, meeting and satisfying the requirements of the Town, will be submitted for each **tower** more than thirty-five (35) feet in height, and a performance bond or letter of credit in the amount of one hundred percent (100%) of cost associated with removal of the **tower** will be posted for each **tower** more than thirty-five (35) feet in height.
- (3) Removal costs shall be charged to the **tower** owner.
- (Q) A site **development** plan shall be prepared by a North Carolina registered land surveyor, landscape architect, or professional engineer, and shall contain the following information:
- (1) The names, addresses, and telephone numbers of the **applicant** and the property owner, tax parcel identification number, scale, north arrow, a copy of the section of

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the 1:24,000 USGS quadrangle showing the proposed site and latitude and longitude coordinates.

- (2) The name, address, telephone number, signature, and seal of the professional individual or firm preparing the site **development** plan.
- (3) All identifiable **structures** located on the parcel, all private and public roads, highways, and underground and overhead utilities.
- (4) Surveyed boundary lines of the parcel containing the proposed **telecommunication tower** construction and its fall zone.
- (5) All existing **towers** on the property or any **towers** whose fall zones encroach onto the property.
- (6) Description of adjacent land use and all property owners= names, tax parcel numbers, and mailing addresses.
- (7) The ground elevation of the proposed **tower's** base, all proposed support **structures**, property corners, and a permanent site benchmark. (All elevations shall be determined using the National Geodetic Vertical Datum of 1929 or other appropriate vertical datum.)
- (8) A communication **tower** design plan prepared by a North Carolina registered professional Engineer containing a plan depicting the **tower** and all proposed support **structures**, buildings and other improvements, and **access** roads and utility connections within and to the proposed site. Such plans shall contain the following information:
 - (a) The names, addresses, and telephone numbers of the **applicant** and the property owner;
 - (b) The plan scale, a north arrow, and a vicinity map;
 - (c) Tax parcel identification number for any parcel of land containing the **tower** site and the **tower's** latitude and longitude coordinates;
 - (d) The name, address, signature, and seal of the person who prepared the **site plan**;

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- (e) The surveyed boundary lines of any parcel, or portion thereof, that will contain the proposed **tower**;
- (f) The general location of boundary lines of any parcel or portion thereof within a radius from the **tower** base equal to the proposed **tower** height;
- (g) The names and tax parcel identification numbers of all owners of property immediately adjacent to any parcel containing the **tower** site;
- (h) All identifiable buildings and other **structures** (including existing **towers**) roads and **perennial streams** located on the parcel containing the **tower** site and within a radius from the **tower** base equal to the **tower** height;
- (i) The **tower** base and the foundations for all support **structures**, all proposed buildings, **accessory structure**, and any other proposed improvements, including roads and utilities serving the proposed site;
- (j) The ground elevation of the base of the proposed **tower**, to the nearest foot; and
- (k) A structural engineering certification signed and sealed by an active, registered North Carolina professional engineer, certifying the structural integrity of the **tower** and the **tower** base. The **UDO Administrator** may accept, in lieu of the above, other documentation evidencing the structural integrity of the **tower** and the **tower** base.

(R) Permit:

- (1) If a site **development** plan is determined to be in compliance with the standards set forth herein, then a permit shall be issued by the Board of Adjustment.
- (2) The Board of Adjustment may approve by **special use permit** the construction of a **tower** which does not meet the standards of this section if evidence is provided which demonstrates that reasonable effort has been made to lease space on an existing **tower** or that no existing **tower** will technically satisfy the **applicant's** specific needs.

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- (S) The **UDO Administrator** shall be responsible for the administration and enforcement of this section. Any **violation** of this section or any condition or requirement of the permit issued hereunder may be restrained, corrected, or abated as the case may be, by injunction or other appropriate proceedings in accordance with NCGS ~~160A-389~~160D-404(c), as amended.

SECTION 7.31 TEMPORARY USES

- (A) *Purpose.* It is the purpose of this section to recognize that there is a need for special allowances to be granted to certain **temporary uses** so that they may be permitted within the community. Because of the special problems related to **temporary uses**, it is also necessary to provide specific, separate, and distinct guidelines and standards for them. It is the express intent of these provisions to minimize any potential adverse impact of such **temporary uses** by eliminating, to the greatest possible extent, any major problems, threats, or dangers to the public health, safety, or welfare as may exist with any or all of these **temporary uses**.
- (B) *Permits.* A **Temporary Use** permit must be applied for and permitted before any **temporary use** may commence.
- (C) *Allowable Temporary Uses.* The following uses shall be allowed as **temporary uses**:
- (1) Circuses and/or carnivals.
 - (2) Evangelistic and religious related congregation.
 - (3) Outdoor bazaars, cookouts, and/or similar activities by churches or other nonprofit institutions and organizations.
 - (4) Open lot sales area for Christmas trees or special fund raising sales for nonprofit organizations.
 - (5) Antique and classic auto and truck shows sponsored by nonprofit organizations. Food vendors and auto part vendors are permitted as part of the show.
 - (6) Outdoor weddings using **tents**.
 - (7) Conventions held in approved convention centers may use indoor and outdoor vendors.

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- (8) Contractors' offices and/or construction sheds including mobile offices for displaces or contractors during construction on the site.
 - (9) Temporary real estate sales office.
 - (10) Temporary relocation manufactured housing for displaces as a result of natural or man-made disasters or public sponsored redevelopment projects in a neighborhood or area.
 - (11) Temporary special sales or "flea" markets in nonresidential districts (occasional sidewalk or ***parking lot*** sales).
 - (12) Other temporary recreational or entertainment-related events or activities such as fairs or concerts.
- (D) *Standards.* The following guidelines shall apply to all the allowable ***temporary uses***:
- (1) A letter of intent outlining the dates, location, use, duration of use, owner, operator, and other pertinent information shall be submitted along with the other requirements of this Ordinance to the ***UDO Administrator*** prior to issuance of a permit. Such letter, upon final acceptance, shall be the commitment to comply with the requirements contained herein and the conditions outlined therein by the responsible party of such use.
 - (2) The ***UDO Administrator*** shall inspect and approve the installation of all ***temporary uses*** prior to any use of the facility.
 - (3) For circuses, carnivals, bazaars, evangelistic, or religious congregations, open lot sales, fairs, or special entertainment events, and special sales, each permit ***applicant*** shall submit a parking and traffic plan which shall include the following:
 - (a) Indication of area to be used by operators= vehicles and customers;
 - (b) Designation of entrances and exits, traffic flow, and parking areas;
 - (c) Total number of parking spaces available;
 - (d) Estimated number of customers or participants;

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- (e) Traffic control measures. The **applicant** shall also submit a plan for compliance with the Noise Control Ordinance as contained in Chapter 94 of the Town Code. Permitted hours of operation for circuses, carnivals, bazaars, fairs and special entertainment events are set forth by the Town Administrator.
- (4) If a **temporary use** is to be installed for six (6) months or more, the facility shall be connected to Town water and sanitary sewer in accordance with the ordinances and policies of the Town of Sunset Beach. Otherwise, approved portable toilets shall be provided.
- (5) Where a **tent** or similar **structure** is to be used, the following requirements or documentation shall be met:
 - (a) A limitation on the number of occupants in a **structure** shall be observed as per the NC Fire Code and Building Code.
 - (b) In conjunction with an occupancy limit, a seating plan, if seating is provided for an audience, must also be submitted and approved by the Fire Marshall.
 - (c) If a **tent** is to be used for human occupancy, a certificate of insurance must be submitted which will cover liability on the part of the **applicant** or sponsor in the event of an accident.
 - (d) A certificate of flame resistance shall be submitted which will provide assurance that the **structure** has been properly treated with flame retardant and has been maintained as such.
- (6) Where temporary **structures, tents, mobile offices, accessory uses, existing structures,** or similar uses are required in connection with the **temporary use,** a sketch plan or layout generally drawn to scale shall be submitted and shall show the location or placement of the **temporary uses, structures, and accessory uses** in conjunction with adjacent **streets, parking, attendant accessory uses, existing or proposed structures,** and traffic movement or flow pattern, and entrances and exits.
- (7) The following additional conditions or requirements shall apply for each permitted **temporary use:**

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Use	Maximum Allowed Time Duration Per Each Separate Use or Event Per Site
Circuses or carnivals	14 days
Evangelistic and religious related congregations	14 days
Outdoor bazaars	3 days
Open lot sales of Christmas trees or special fund raising sales for residential districts for nonprofit organizations	45 days
Antique and classic auto and truck shows	2 days
Outdoor weddings	3 days
Conventions held in convention centers	21 days
Contractor=s offices, construction sheds, or mobile office for displaces during construction	During construction period only
Temporary housing, manufactured	18 months, unless authorized longer by Council
Temporary real estate office	5 years or until 80% of subdivision lots are sold, whichever is first
Fairs or other special recreational or entertainment events	1 day except 14 days for annual events
Special sales or temporary "flea" markets	7 consecutive days or 2 consecutive weekends

- (8) The following additional requirements shall apply:
- (a) *Temporary Real Estate Office.* The office or required **accessory uses** shall not be equipped or used for **dwelling** purposes including but not limited to sleeping and major cooking activities.
 - (b) Temporary offices or sheds during **construction activity.**
 - 1. Set back from right-of-way a minimum of twenty-five (25) feet.

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2. Must be tied down per Building Code.
 3. May not be occupied overnight.
 4. Such use may be placed on the proposed construction site no earlier than one (1) month prior to construction and must be removed no later than one (1) month following completion of the construction.
 5. Temporary accommodations for displacees shall be allowed only on the construction site and for the specific purpose of providing temporary relocation office or work/activity space required during construction activities involving renovation, expansion, or reconstruction of an existing facility. Such temporary facilities for displacees shall not apply to residential renovation, expansion, or reconstruction except as allowed in this section and such facilities shall not be used for residential **dwelling** purposes.
- (c) *Fairs or Related Temporary Recreational or Entertainment Events.* Fairs or similar events which usually occur on an annual basis are allowed in nonresidential districts and public parks.
- (d) *Temporary Housing.* Manufactured housing; nonpermanent facilities for displacees as a result of a natural or man-made disaster or a publicly sponsored redevelopment or rehabilitation project in a neighborhood or area shall be allowed provided they meet the following requirements:
1. The manufactured housing must be sited in accordance with the following dimensional requirements:
 - a. Each manufactured housing space shall have a minimum area of four thousand (4,000) square feet.
 - b. Minimum clearance between each manufactured housing unit shall be fifteen (15) feet.
 - c. Each manufactured housing unit shall have a minimum **setback** of fifteen (15) feet from any **street** right-of-way, as applicable.

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- d. Each manufactured housing unit shall have a minimum **setback** of twenty (20) feet from all exterior boundary lines of the site, as applicable.
 - e. Each manufactured housing unit shall have a minimum **setback** of twenty (20) feet from any building within the site, as applicable.
2. All manufactured housing units shall be connected to city utilities for water and sanitary sewer if available, or a State-approved septic system.
 3. Off-street parking to accommodate a minimum of one (1) car per manufactured housing unit must be provided on the site.
 4. All manufactured housing units shall be removed from the site within thirty (30) days after completion of the rehabilitation work.
 5. Adequate provision shall be made for solid waste management in compliance with Town ordinances and policies.
 6. The **Town Council** has by formal action designated such area as a redevelopment area or a disaster area within specifically defined boundaries and under specific conditions as determined by the **Town Council**.

SECTION 7.32 NON-MOTORIZED WATERCRAFT RENTAL BUSINESS

A business engaged in the rental of non-motorized personal watercraft may be allowed pursuant to the use tables provided in Section 6.04, provided that the business is operated within the requirements specified below:

- (A) An office facility in a permanent **structure** must be maintained for business activities such as rental transactions, storage of business records, supplies, and accessory equipment.
- (B) Launch and recovery **site plans**, if applicable, must be submitted to and approved by the **Planning Board**. The plans shall include written documentation indicating that the

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applicant has the legal right to the use of the sites for launching and recovery of watercraft.

- (C) A plan for off-street parking at the office facility and at the launching and recovery sites or as otherwise allowed in Article 9, Part II, must be submitted to and approved by the Board of Adjustment. The **applicant** must submit written documentation indicating that the **applicant** has the lawful right to use the designated sites for off-street parking.
- (D) Only routine maintenance (minor repairs and adjustments) that does not create any unreasonable sounds or odors may be done at the office location or at the launch and recovery sites.
- (E) The hours of operation permitted for leased watercraft shall be from no earlier than 7:00 AM until no later than sunset during any given day.
- (F) The **applicant** must demonstrate that it possesses all necessary and required state and federal licenses, permits, and the like for its equipment and the operation of said watercraft rental business.

SECTION 7.33 DESIGN CRITERIA FOR MIXED USE DISTRICTS (SEE APPENDIX B)

- (A) In order for the mixed use districts to function, they must have definable edges and not be allowed to extend into highway strips. Absolute boundaries for this district must be established. To ensure this, mixed use districts shall not exceed one hundred (100) acres.
- (B) In order to qualify as a mixed use district, a project must meet the following requirements:
 - (1) The site must contain not less than fifty (50) contiguous acres or more than one hundred (100) contiguous acres.
 - (2) The entire site must be subject to a master declaration of restrictions and design guidelines recorded in the **Brunswick County Register of Deeds** Office prior to any conveyance of the property or portion thereof from the single owner and prior to the issuance of any type of building or other **development** permit. Prior to the recording of the master declaration and guidelines, the declaration and guidelines must be reviewed and approved by the **Planning Board** to ensure that the entire site will be developed in compliance with the requirements of the mixed use district. Any changes or modifications to the master declaration or guidelines must be

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approved by the **Planning Board** prior to recording to ensure compliance with Town ordinances.

- (3) Under no circumstances shall the **height** of any building exceed fifty (50) feet.
- (C) All other dimensional requirements as set forth in documents referenced as the master declaration of restrictions and design guidelines shall be adopted and incorporated in full into the UDO.
- (D) Following the pre-application conference with the **Planning Board** and **UDO Administrator**, a mixed use district **development** application can then be submitted by the petitioner. This application shall take into consideration the comments received in the pre-application conferences. An application shall be filed with the **UDO Administrator** at least ten (10) working days prior to the application's presentation to the **Planning Board** and **UDO Administrator**. An application for a mixed use district shall contain a boundary survey and legal description of the areas prepared and certified by a registered state land surveyor not more than six (6) months prior to the application, showing thereon the total acreage to the nearest one one-hundredth of an acre, a true north point, and the date of preparation.
- (E) The following provisions shall be required:
- (1) All **lots** shall share a **frontage** line with a **street**, square, courtyard, or park.
- (2) All buildings shall have their main entrance opening onto a **street**, square, courtyard, or park with the exception of the one (1) allowable **accessory structure**.
- (3) No minimum **lot area**, **lot width**, or **lot depth** shall be required. As it is the intent of this Ordinance to create a pedestrian sidewalk environment, the positive relationship of the **structure** to the **street** also requires there be no minimum **setback** from the **street**. It is, however, the intent of this section to create a variety of streetscapes with differing dimension as appropriate to the uses. For example, areas of townhomes located on a commons might have no **setback** while detached homes outside of the centers might have substantial **front yards**. These dimensions, however, shall comply with the **development** plan as approved by **Planning Board** and **Town Council** as required by the mixed use district **regulations**.

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- (4) **Lots** that have **frontage** along a major State Department of Transportation thoroughfare shall have a minimum **setback** measured from the **street** right-of-way of thirty (30) feet at the time of district approval. This **setback** shall be clear of all pavement and **structures** with the exception of driveways, which shall cross the **setback** as close as practical to perpendicular.
- (F) (1) **Streets** serve as the main public space containing sidewalks, trees, lighting, **signs**, and buildings.
- (2) Pedestrian activity is encouraged by a larger height to width ratio of the **street** to the building lines. A height of one (1) and width of three (3) is the average desired ratio. A ratio of one (1) to six (6) is the absolute maximum because as the **street** gets wider it loses its spatial definition and is undesirable from the pedestrian perspective. If buildings are set back from the road along parkways beyond this threshold, **street** trees shall be used to increase the vertical definition.
- (3) A schematic plan of existing and proposed utilities drawn at a scale of not less than one (1) inch equals one hundred (100) feet, showing:
- (a) Sanitary and storm sewer systems, with individual tap locations designated; and
 - (b) Water supply systems.
- (G) A schedule for **development** of the proposed mixed use district **development**.
- (H) A narrative description of the character of the proposed mixed use district.
- (I) Proposed agreements, provisions, or covenants which will govern the use, maintenance and protection of the mixed use district and any of its common **open space**, recreation areas and facilities.
- (J) Information on the type and amount of ancillary and non-residential uses in a residential **development**, including the amount of common **open space**, recreational areas, and facilities.
- (K) Present tract designation including book and page, according to official records in the **Brunswick County** Office of the **Register of Deeds**.

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- (L) Title under which the proposed **development** is to be recorded and the names and addresses of all owners.
- (M) Architectural renderings illustrating the general character of a typical proposed **structure(s)** within the mixed use district illustrating the intended thematic nature of the architecture.
- (N) All necessary documentation to submit a mixed use district application to the Town **Planning Board**.
- (O) A drawing of the site illustrating the project boundary. A **buffer** shall be provided to adjacent single-family residences in accordance herewith consisting of either a planted berm or a **fence** or wall as detailed in this section.
- (P) This district is permitted within the community along a major thoroughfare, minor thoroughfares, or collector **streets** having adequate access.
- (Q) **Streets** may be either public or private but must be adequately designed and constructed for the anticipated traffic and must conform to Town specifications.
- (R) Other information deemed necessary by the **UDO Administrator**.

SECTION 7.34 OPEN SPACE REQUIREMENTS FOR SINGLE-FAMILY DEVELOPMENTS

- (A) All single-family residential projects with more than ten (10) lots and/or dwelling units shall provide open space in conformance with this section. A subdivision or project may not be developed in phases in order to avoid the requirements set forth herein. If the total number of lots and/or units in the entire subdivision or project exceeds ten (10), this section shall apply even though the number of lots and/or units in a particular phase is less than ten (10). If a phased subdivision is proposed, the required open space will be based on the total acreage of all phases of the subdivision. The open space shall be dedicated before final approval of each phase.
- (B) *Amounts of Open Space to be Provided.* At least fifteen (15) percent of the total net area of a subdivision shall contain open space as specified herein.
- (C) *Open Space.*

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- (1) Not more than ten (10) percent of the total area of required open space shall be occupied or covered by impervious surfaces, provided, however that the following shall not be counted within this limitation:
 - (a) Walking trails, bike paths, sidewalks and cart paths.
 - (b) Recreational amenities.
 - (c) The minimum parking area as required by Town Ordinance for approved recreational amenities that are classified as open space.

- (2) In order to be included in the calculation for required open space, the following criteria shall be satisfied.
 - (a) All open space shall have a minimum horizontal dimension of fifty (50) feet except that walking trails, bike paths, and sidewalks shall have a minimum horizontal dimension of eight (8) feet.
 - (b) Each individual open space shall contain a minimum area of at least five thousand (5,000) square feet unless a smaller area is specifically approved as to its size and layout by the Planning Board, after considering the size of the project, the particular type of open space involved and the physical characteristics of the land.
 - (c) Except as otherwise provided in this section, open space shall be accessible to all owners of property in the subdivision and the plat shall identify and depict said access to the open space.

- (3) Uses of open space may include the following:
 - (a) Conservation areas for natural, archeological, or historical resources.
 - (b) Wooded natural areas used for passive uses.
 - (c) Walking or bicycle trails.
 - (d) Water bodies provided, however, that no more than fifty (50) percent of the required open space can be made up of water bodies. Public Trust Waters as defined in 15A NCAC 7H cannot be counted as required open space.

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- (e) Other conservation-oriented uses compatible with the purposes of these regulations.
 - (f) Up to one hundred (100) percent of a golf course within the proposed subdivision may be included in the calculations for useable open space, provided that property owners are allowed access to cart paths.
 - (g) Ballfields and playgrounds.
 - (h) Community gardens.
 - (i) Easements for underground utilities and drainage not located in the road right-of-way.
 - (j) Recreational amenities such as community centers, tennis courts, community swimming pools, and other similar facilities used in common and made available to the residents of the entire subdivision.
 - (k) Sidewalks located within the road right-of-way.
 - (l) Easements for drainage or underground utilities.
 - (m) The minimum parking area as required by Town Ordinance for approved recreational amenities which are classified as open space. Any parking area in excess of the minimum required area shall not count as open space.
- (4) Open space does not include the following:
- (a) Road right-of-ways and impervious surfaces, except as specifically authorized hereinabove in subsection 7.34(C)(1).
 - (b) Agricultural and forestry activities.
 - (c) Easements for above ground utilities.
 - (d) Required buffer areas.

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- (e) Any area defined as wetlands by state or federal law or regulation, including the Clean Water Act, 33 USC 1344, or any area within any setback established pursuant to the Coastal Area Management Act except that the actual square footage of approved walkways or viewing areas that pass through the wetland area can be counted at two hundred (200) percent toward the open space requirement.
- (D) *Legal Instrument for Permanent Protection.* All required open space must be properly set out, identified, and irrevocably dedicated to all lot owners in the subdivision on both the preliminary and final plats for the subdivision. Said plats must depict legal access for all lot owners to the required open space areas. In addition, prior to approval of the final plat, the developer must record restrictive conditions or covenants limiting the property identified as open space to the uses set forth herein as approved by the Town. The developer may place additional restrictions on the use of the open space areas provided that the additional restrictions do not conflict with the terms of this section. Notwithstanding anything in this section to the contrary, the developer or golf course operator of a golf course within the subdivision that is included in the required open space may restrict use and access to the golf course during the hours of operation or maintenance of the golf course to only its members or others as approved by the developer or golf course operator. In addition, the developer or golf course operator may at all times restrict or prohibit access to all playing areas of the golf course.

SECTION 7.35 CONSTRUCTION WITH PILE-TYPE FOUNDATION

- (A) Any building erected south of the inland waterway in the Town shall be required to be constructed with pile-type foundation.
- (B) Piling standards for coastal and floodplain construction shall be as set out in the North Carolina State Building Codes.

SECTION 7.36 STORMWATER SOLUTION

- (A) Any project which proposes a total impervious surface area percentage greater than that allowed by the zoning district in which the lot lies as laid out in Article 6 must prepare a stormwater solution. This solution shall be prepared by a North Carolina Professional Engineer and shall meet the intent of the Stormwater Ordinance. This solution must be approved by the Planning and Inspection Department.
- (B) Guttering and down spouts may not be piped underground towards or through sea walls. They must be a minimum of 30 feet from surface waters and a minimum of 50 feet from

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Class A waters. Exception, when an infiltration system has been designed by and approved by a licensed North Carolina Engineer or Architect. Under this circumstance the infiltration system should remain as far as possible from any waters

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Section 11.1 Purpose

The purpose of this section is to:

- (A) Enhance and protect the physical appearance of the Town while promoting the economic well-being of the community by creating a favorable physical image.
- (B) Promote public safety and traffic safety by ensuring that signs are properly designed, constructed, installed and maintained, especially in an area susceptible to high winds, hurricanes, and extreme weather conditions.
- (C) Minimize distractions and/or obstruction of views that contribute to traffic hazards and endanger public safety.
- (D) Promote high standards of quality development by encouraging appropriately designed, placed, and sized signage.
- (E) Preserve the value of property by assuring the compatibility of signs with surrounding land uses
- (F) Enhance the overall appearance and scenic value of the landscape and preserve the unique natural environment that distinguishes the Town.
- (G) Provide an effective guide for communicating identification through signage while preventing signs from dominating the visual appearance of the areas in which they are located.

Section 11.2 Applicability

- (A) Signs may only be erected, affixed, placed, painted, or otherwise established in accordance with the standards provided herein. Certain signs are exempt from permitting (Section 11.3) but are still subject to standards provided.
- (B) No sign shall be placed in the right-of-way (unless exempted from this requirement) and all signs shall be constructed and designed, according to generally accepted engineering practices, to withstand wind pressures and load distribution as specified in the current building code.
- (C) It is also acknowledged that the Town's economic well-being is heavily dependent on tourism. This dependence makes the preservation of the environment from unreasonable signs a matter of critical importance to the Town.
- (D) Signs are regulated on the basis of the zoning district in which they are displayed and five (5) design features: type of sign, size of sign, height of sign, location of sign, and type of illumination used. All signs shall be erected, altered, and maintained in accordance herewith.
- (E) The Town shall be exempted from these regulations in order to promote the community interest.

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Section 11.3 Signs Exempt from Permitting Requirements

A permit is not required for the following types of signs or sign alterations; however, they must comply with all other applicable sections of this article and the standards of this section.

- (A) Traffic directional signs, provided the signs are no greater than four (4) square feet in area and are limited to three (3) feet in height above the adjacent grade.
- (B) Address signs, private street or road name signs meeting the NCDOT and Brunswick County 911 addressing standards as to size, color, and placement. Such signs may be illuminated.
- (C) Signs directing and guiding traffic and parking on private property not exceeding four (4) square feet for each sign with a maximum height limitation of three (3) feet. A maximum of one such sign shall be permitted at each point of ingress or egress to a parking area.
- (D) Pavement markings of a traffic directional nature consistent with standard and customary markings used by the Town and NCDOT.
- (E) Signs not visible beyond the boundaries of the lot or parcel upon which they are situated or from any public right-of-way or public body of water.
- (F) Changing copy on a legal bulletin board or maintenance where no structural changes are made, or the changing of the interchangeable letters on signs designed for them, or the changing of the color of illumination systems.
- (G) Holiday season decorations.
- (H) Historical markers, memorial signs, or plaques provided that all such symbols, plaques and identification emblems shall be placed flat against a building and be less than three (3) square feet.
- (I) Integral decorative features of buildings, except letters, trademarks, moving lights or moving parts.
- (J) Fence-wrap signs affixed to fences surrounding a construction site may be allowed in accordance with NCGS 160D-908.
- (K) Safety Signage

Each lot is permitted the use of safety signs subject to the following. Lots which may have construction or an open building permit are subject to the following standards:

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- (1) The aggregate sign face area for all safety signage on a lot shall not exceed thirty-two (32) square feet.
 - (2) No single safety sign shall exceed four (4) square feet of sign face area.
 - (3) No lot shall include more than 16 individual safety signs (for the purposes of this section a two-sided sign may be counted as a single sign).
 - (4) The top of a safety sign shall not be greater than five (5) feet above the adjacent grade.
 - (5) Safety signs shall not be illuminated.
- (L) Yard Signs. Each lot in a residential zoning district shall be allowed one (1) yard sign not exceeding six (6) square feet or four (4) feet in height. Such sign shall not be constructed utilizing wood, cement, steel, or other similar structures of a permanent nature. Such sign shall be easily removed and placement thereof shall not be of a permanent fashion.
- (M) Temporary Yard Signs. Each lot that is for sale, or has a structure listed for sale or rent, shall be allowed up to one temporary yard sign on the premises, subject to the following standards:
- (1) One (1) temporary yard sign not exceeding six (6) square feet for residential zoning districts may be allowed while said property is listed for sale or rent. Maximum height shall be four (4) feet in residential districts.
 - (2) One (1) temporary sign not exceeding eight (8) square feet for non-residential zoning districts may be allowed while said property is listed for sale or rent. Maximum height shall be six (6) feet in non-residential districts.
 - (3) Temporary yard signs shall not be illuminated.
- (N) Temporary Banners
- (1) Each lot or commercial establishment, may have one (1) temporary banner sign per street frontage not exceeding thirty two (32) square feet in non-residential zoning districts. Maximum height shall be four (4) feet in non-residential districts (MB-1, MB-2, BB-1, RI, MUD).
 - (2) These signs may remain in place for up to fourteen (14) days for three (3) times per year with a minimum thirty (30) day separation.
 - (3) Temporary banners shall not be illuminated.
 - (4) Temporary banners shall be secured and designed so as to withstand high winds.

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(O) Special Event Signs

- (1) Special Events are defined as events that have a community-wide impact, usually involve the use of or closing of streets, use of Town facilities and staff, require a Town permit, or are an event not otherwise classified as a temporary event. Such events include, circuses, concerts, festivals, street fairs, road races, and other such activities. Signage for such events are subject to the following standards.
- (2) All temporary banner signs under this provision may be erected no more than 3 weeks prior to the event and shall be removed no later than 48 hours after the event has concluded, unless expressly stated in the Section. For any event lasting more than 2 consecutive days or for events that are recurring weekly up to 25 weeks, signs located on the site of the event may remain on the site for the duration of the event, but shall be placed and removed as expressed herein.
- (3) Special Event Signs will be required to meet the standards of the Town's regulations regarding special events.

(P) Temporary Off-Premise Event Signs

- (1) Temporary off premise signs are limited to up to two (2) signs per event, with adjoining property owner's permission and shall be at least a minimum of five (5) feet from the designated road surface. Signs shall not exceed six (6) square feet.
- (2) These signs may remain in place for up to 14 days.
- (3) Signs shall be removed within twenty-four (24) hours following the event.

(Q) Temporary Legal Notices

- (1) Signs shall be placed as required by state law pending regulatory action and an associated hearing regarding a particular property. Signs shall not exceed six (6) square feet.
- (2) Signs shall be removed immediately following such action.

(R) The flying of up to three (3) flags (not to include feather flags):

- (1) Size shall not exceed four (4) by six (6) feet.
- (2) All three (3) flags may be flown on a single flagpole or individual flagpoles but not to exceed three (3) flags.
- (3) Any flagpole shall not exceed a height of 25 feet, including any base securing the flagpole.

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(S) Election signs

Sign placement and duration shall be in accordance with NCGS 136-32 in the NCDOT right-of-way. During the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10th day after the primary or election day, subject to the following provisions:

- (1) Right-of-way Sign Placement. A person must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:
 - (a) No sign shall be permitted in the right-of-way of a fully controlled access highway.
 - (b) No sign shall be closer than three feet from the edge of the pavement of the road.
 - (c) No sign shall obscure motorist visibility at an intersection.
 - (d) No sign shall be higher than 42 inches above the edge of the pavement of the road.
 - (e) No sign shall be larger than 864 square inches.
 - (f) No sign shall obscure or replace another sign.
 - (g) No sign shall be allowed within the Town right-of-way.
- (2) Private property Sign Placement. The regulations under Section 11.3(L) Yard Signs shall not be in effect nor enforced during the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10th day after the primary or election day.
- (3) The party responsible for erecting the sign shall be held responsible for any violations.

Section 11.4 Prohibited Signs

The following signs are prohibited:

- (A) Any sign not specifically permitted under Article 11 or any sign that is not specifically exempted from this Article is prohibited from being erected and subject to removal and fees as set forth in the Town's fee schedule.
- (B) Any signs on benches and refuse containers.
- (C) Electronic message centers/Digitally animated signs
- (D) Portable Signs
- (E) A-Frame Signs
- (F) Feather Flags

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- (G) Mobile Signs
- (H) Snipe Signs
- (I) Signs attached or painted to piers or bulkheads except for one (1) on-premise building identification sign not to exceed four (4) square feet per establishment.
- (J) Pavement markings, except those of a customary traffic control nature.
- (K) Signs of material including but not limited to paper, paint, cardboard, plastic, wood and metal which are painted on or attached to trees, lampposts, hydrants, traffic signs, rocks or other natural features, telephone or utility poles.
- (L) Any permanent off-premise signs, including billboards.
- (M) Balloons, streamers, spinners, posters, placards, pennants or inflatable devices.
- (N) Any sign, sign structure, or portion thereof (other than freestanding signs), which extends above the top of the wall parapet, building roof line, and/or the facade of any building. Signs shall not be placed on any roof.
- (O) Any sign or outdoor advertising display which contains statements, words or pictures of an obscene character as defined in G.S. 14-190.1 such as will offend public morals or decency.
- (P) Any sign which restricts or appears to reserve any portion of the public right-of-way or any public property for the exclusive use or private uses of any individual, tenant, client, guests or business. This prohibition extends to all such signs, whether on public property or private property.
- (Q) Glass tubes filled with neon, argon, krypton or others used to construct a sign or used in a manner similar to festoon lighting exceeding three (3) square feet in size.
- (R) Prohibited advertisement of illegal activities in the State.
- (S) No sign shall be attached to or placed against the outside of a building in such a manner as to prevent ingress and egress through any door or window, nor shall any sign obstruct or be attached to a fire escape.
- (T) Any sign or flag the UDO Administrator deems to be significantly worn, torn, dilapidated, damaged, tattered, or otherwise in disrepair. Such signs may be removed by the UDO Administrator sixty (60) days after written notice to the owner.

Section 11.5 Obsolete and Abandoned Signs.

Nonconforming signs or signs serving a vacant building or site that has not been in use for 180 days or more shall be deemed to be an abandoned sign and shall be removed. The obsolete or

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abandoned sign may be removed by the UDO Administrator within sixty (60) days of notice to the owner at the owner's expense.

Section 11.6 General Standards

- (A) No floodlights shall be utilized as a part of a sign illumination system which are not hooded or shielded so that the light source is not visible from any public right-of-way or adjacent property, nor shall any sign otherwise reflect or emit a glaring light so as to impair driving vision.
- (B) No sign illumination system shall contain or utilize any beacon, spot, searchlight or stroboscopic light or reflector which is visible from any public right-of-way or adjacent property; nor shall such lights be operated outside, under any circumstances, except by authorized public agencies.
- (C) No sign shall display lights resembling by color and design or other characteristics customarily associated with danger of those used by police, fire, ambulance and other emergency vehicles or for navigation. Automotive warning or flashing signs shall not be utilized as commercial attention-seizing devices.
- (D) No sign is permitted which, due to its position, shape, color, format or illumination, obstructs the view of or may be confused with an official traffic sign, signal or device or any other official sign, or which uses the words "stop," "warning," "danger," or similar words implying the existence of danger or the need for stopping or maneuvering.
- (E) No sign shall rotate or otherwise move.
- (F) No sign shall obstruct the view of motor vehicle operators entering a public roadway from any vehicular access, driveway, street or alley. See Article 2, Section 2.08 Sight Visibility Triangle.
- (G) Setbacks. In the absence of a specific sign setback, all signs and sign structures must be located at least five (5) feet from any property line and outside of all sight visibility triangles (See Article 2, Section 2.08 Sight Visibility Triangle).
- (H) Sign Area Calculation.
 - (1) In measuring the area of signs permitted under these regulations, the entire face of the sign (one (1) side only), and any wall work incidental to its decoration, shall be included. Where both sides of a sign contain lettering or other allowable display, one (1) side only shall be used to compute the allowable size of the sign.
 - (2) Where the sign consists of individual letters or a sign face of irregular shape, the sign area shall include the area of the smallest rectangle that can encompass the letters or sign face.

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- (3) In calculating the total area of a monument sign, the first two (2) feet of the height of the base shall be excluded, providing that this portion of the base does not contain any lettering or graphics.

Section 11.7 Permit Procedures

The UDO Administrator or his/her designee shall issue a sign permit for the erection or construction only for a sign which meets the requirements of this article and is not subject to exemption as provided in Section 11.3. Each application shall be accompanied by a plan showing the following:

- (A) Name and address of the owner of the sign.
- (B) Exact size, shape, configuration, design, area, height, nature, number and type of sign to be erected.
 - (1) To calculate sign area, the following should be included: the entire face of a sign, computed as the extreme limits of the lettering or other display, together with any integral part of the background of the lettering or display, but not including the support framework, bracing, fence or wall upon which it is placed when such is clearly incidental to the display itself. In the case of a double faced sign, only one side is considered in computing sign area.
 - (2) Height of sign means the vertical distance measured from the adjacent street crown grade to the top of the sign face or sign structure, whichever is greater.
- (C) The value of the sign or sign structure.
- (D) The method and type of illumination, if any.
- (E) The location proposed for such signs in relation to property lines, zoning district boundaries, right-of-way lines, and existing signs.
- (F) A graphic representation (hand drawn if necessary), including color scheme, lighting, and landscaping of the proposed sign.
- (G) If conditions warrant it, such additional information as will enable the UDO Administrator to determine if such sign is to be erected in conformance with the requirements of this article.
- (H) Before issuing a sign permit, the applicant shall pay all fees as set forth in the Town's fee schedule.

Section 11.8 Residential Zoning District Sign Regulations

In a residential zoning district the following signs shall be permitted in accordance with the standards provided (MR-1, MR-2, MR-3, BR-1, BR-2, MH-1, & MH-2):

- (A) Up to two (2) ground-mounted or monument signs per subdivision entrance may be utilized, provided each sign does not exceed sixty-four (64) square feet in area,

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fourteen (14) feet in length, and six (6) feet in height. They must be neatly constructed of plastic, masonry, treated wood, and sandblasted wood, excluding wooden lattice sheets, and must be colored in earth tone shades.

- (B) Each monument sign shall be required to have landscaping and plantings installed at the time of sign installation with review and approval by the UDO Administrator. The landscaping shall surround the base of the sign, extending at least three (3) feet beyond both ends of the sign and at least six (6) feet beyond each face of the sign. Landscaping shall only require shrubs and/or ground cover and shall be planted thirty-two (32) inches or less apart on centers.
- (C) Residential Structure Wall Signs. Each residential structure may have up to two (2) wall signs. The following regulations apply:
 - (1) One of the two allowed signs may be wall mounted and may not exceed eight (8) square feet.
 - (2) The other allowed sign may be wall mounted or mounted on piles for elevated structures and may not exceed three (3) square feet.
 - (3) These signs shall not be illuminated.
 - (4) These signs do not include address identification as regulated under Article 2, Section 2.23 Street Address Display.
 - (5) A two-family dwelling (duplex) will count each unit as a separate residential structure.

Section 11.9 Non-Residential Zoning District Sign Regulations

In a non-residential zoning district the following signs shall be permitted in accordance with the standards provided (MB-1, MB-2, BB-1, RI, MUD), in addition to those permitted in residential zoning districts.

Signs allowed: Each property may have one (1) monument or freestanding. Individual establishments may have one (1) of the following, with establishments on corner lots allowed two (2): Wall Sign (includes window signs); Blade Sign (Projecting Signs); or Awning Sign.

11.9.1 Monument or Freestanding Signs

- (A) One (1) monument or freestanding sign shall be permitted per lot.
 - (1) Maximum height allowed is sixteen (16) feet and the maximum allowed total signage area is sixty four (64) feet.
 - (2) Each monument sign shall be required to have landscaping and plantings installed at the time of sign installation with review and approval by the UDO Administrator. The landscaping shall surround the base of the sign, extending

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at least three (3) feet beyond both ends of the sign and at least six (6) feet beyond each face of the sign. Landscaping shall only require shrubs and/or ground cover and shall be planted thirty-two (32) inches or less apart on centers.

- (B) Shopping centers and/or business condominium development may provide one (1) freestanding sign for the center. Such signs shall not exceed a sign surface area of sixty four (64) square feet relating to the center or development plus twelve (12) square feet relating to each individual tenant business within the shopping center.
- (C) No freestanding sign structure requiring a permit shall coexist on the same parcel with any other freestanding sign unless the parcel has more than five hundred (500) feet of principal street frontage, in which case no two (2) signs shall be located closer than five hundred (500) feet from one another.
- (D) For the purposes of this section, Fuel Station Canopies shall be considered freestanding signs and shall be regulated as follows:
 - (1) The sign face on the Fuel Station Canopy fascia shall be no larger than eight (8) square feet fifty (50) percent of the canopy area, and may be displayed one (1) time on each side of the canopy that faces a primary street.
 - (2) To achieve said illumination a ninety (90) degree cutoff luminary, which directs the lighting towards the ground underneath should be used, unless lighting is directed towards the building. At no time shall lighting illuminate adjacent residential property or interfere with safe vehicular travel.

11.9.2 Wall Signs

Wall signs including glassed areas shall be limited to one (1) square foot per two (2) linear feet of building frontage on which the sign is attached. Individual wall signs shall not exceed 100 square feet. All wall and window signage shall be compliant with the following:

- (A) No wall signs shall protrude more than twelve (12) inches from the wall to which it is attached.
- (B) No wall signs shall extend beyond the parapet or eave line as appropriate of the building to which it is attached. If the building consists of more than two (2) stories, wall signs shall not extend above the second story.
- (C) Wall signs shall not cover up or interrupt architectural features.
- (D) Window signage counts towards the total allowed and shall not to exceed twenty five (25) percent on a glazed area.
- (E) Multiple street facades (corner lot) shall be allowed signage on each street facing façade.

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11.9.3 Blade Signs (Projecting Signs)

Blade Signs are allowed with the following regulations:

- (A) One (1) non-illuminated blade sign is allowed per business establishment.
- (B) Any blade sign must have eight (8) or more feet of vertical clearance from the ground or sidewalk level.
- (C) Any blade sign shall be no higher than sixteen (16) feet above the ground or sidewalk.
- (D) A blade sign may project no more than three (3) feet from the building wall and shall be no more than four (4) square feet in area per display surface.
- (E) Such signs shall be stationary.

11.9.4 Awning Signs

Awnings may be erected and displayed in compliance with the following regulations.

- (A) Maximum of sixteen (16) square feet in signage area on canopy/awning per business establishment.
- (B) No backlit awnings are permitted.
- (C) No neon is allowed on awnings.
- (D) No metal bar or framing or other solid shall be less than eight (8) feet above the ground or sidewalk and that includes any flexible cloth, canvas or similar skirt that may hang below the frame.
- (E) One (1) sign per business establishment may be suspended from or attached to the underside of a canopy/awning, provided such sign does not exceed six (6) square feet in area and maintains a clear distance of at least eight (8) feet between the sidewalk grade and the bottom of the sign.

Section 11.10 Noncompliance.

- (A) The UDO Administrator or code enforcement officer shall cause to be removed any unauthorized, permanent, temporary or portable sign erected or situated upon public property, including the State or Town owned right-of-way.
- (B) The UDO Administrator or code enforcement officer shall cause to be removed any unauthorized, permanent, temporary or portable sign erected or situated upon private property by citing the owner or agent of the owner of the property with a notice of violation and requesting immediate removal.

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- (1) Failure to immediately remove the sign upon notice shall result in a fine as set forth in the Town's fee schedule as established by the City Council and filed in the office of the City Clerk. Said fine accruing each day that the sign is permitted to remain, such that each day a violation continues shall be considered a separate offense.
- (2) Removed signs will be held by the Planning and Inspections Department for not more than seven (7) days. Removed signs may be retrieved during that time by owners upon release by the Planning and Inspections Department and payment of a fine as set forth in the Town's fee schedule as established by the City Council and filed in the office of the City Clerk.
- (3) After seven (7) days, all signs removed from public property shall be considered disposable.

ARTICLE 12.
ENVIRONMENTAL REGULATIONS

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PART I. FLOOD DAMAGE PREVENTION ORDINANCE (Coastal Regular Phase)

SECTION 12.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

- (A) *Statutory Authorization.* The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; ~~Parts 3, 5, and 8 of Article 19 of~~ Chapter 160D~~A~~; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.
- (B) *Findings of Fact.*
- (1) The flood prone areas within the jurisdiction of the Town of Sunset Beach are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.
- (C) *Statement of Purpose.* It is the purpose of this article is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:
- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights, or velocities.
 - (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction.
 - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
 - (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage.

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- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(D) *Objectives.* The objectives of this article are to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

SECTION 12.02 GENERAL PROVISIONS

- (A) *Lands to Which This Article Applies.* This article shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extraterritorial Jurisdictions (ETJs) if applicable, of the Town of Sunset Beach.
- (B) *Basis for Establishing the Special Flood Hazard Areas.* The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood

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Insurance Rate Maps (FIRM) dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Sunset Beach are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

- (C) *Establishment of Floodplain Development Permit.* A Floodplain Development Permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 12.02(B).
- (D) *Compliance.* No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this article and other applicable regulations.
- (E) *Abrogation and Greater Restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (F) *Interpretation.* In the interpretation and application of this article, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under State statutes.
- (G) *Warning and Disclaimer of Liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Town of Sunset Beach or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

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- (H) *Penalties for Violation.* Violation of the provisions of this article or failure to comply with any of its requirements, including *violation* of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Sunset Beach from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 12.03 ADMINISTRATION

- (A) *Designation of Floodplain Administrator.* The Town Administrator or his/her designee, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of this part. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.
- (B) *Floodplain Development Application, Permit and Certification Requirements.*
- (1) *Application Requirements.* Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:
- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 12.02(B), or a statement that the entire lot is within the Special Flood Hazard Area;

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- (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 12.02(B);
 - (iv) The Base Flood Elevation (BFE) where provided as set forth in Section 12.02(B); Section 12.03(C)(11) and (12);
 - (v) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (vi) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
 - (vii) The certification of the plot plan by a registered land surveyor or professional engineer.
 - (viii) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 12.02(B).
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE will be flood-proofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or flood-proofed;
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:

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- (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
- (ii) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 12.04(B)(4)(d) , when solid foundation perimeter walls are used in Zone AE.
- (iii) The following, in Coastal High Hazard Areas, in accordance with Section 12.04(B)(4)(e):
 - (1) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction;
 - (2) Plans for open wood latticework or insect screening, if applicable; and
 - (3) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the Base Flood Elevation or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.).

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- (h) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation. The engineering report must show that the flood-carrying capacity within the altered or relocated channel will be maintained.
- (2) *Permit Requirements.* The Floodplain Development Permit shall include, but not be limited to:
- (a) A description of the development to be permitted under the Floodplain Development Permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 - (b) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 12.02(B).
 - (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - (d) The regulatory flood protection elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) The flood openings requirements, if in Zone AE.
 - (g) Limitations of below BFE enclosure uses, if applicable (i.e., parking, building access and limited storage only).
 - (h) A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.
 - (i) A statement, if in Zone VE, that there shall be no fill used for structural support.

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- (j) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 12.04(D) have been met.
 - (k) A statement, that all materials below BFE/RFE must be flood resistant materials.
- (3) *Certification Requirements.*
- (a) Elevation Certificates.
 - (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit.
 - (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the

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reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

(b) *Floodproofing Certificate.*

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the

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certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zone AE and the elevation of the chassis is more than thirty-six (36) inches in height above grade, an engineered foundation certification is required per Section 12.04(B)(3).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation, a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream, and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Development Permit. The engineering report must show that the flood-carrying capacity within the altered or relocated channel will be maintained.
- (e) Certification exemptions. The following structures, if located within Zone AE, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

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- (i) Temporary structures meeting requirements of Section 12.04(B)(7); and
 - (ii) Accessory structures less than one hundred forty-four (144) square feet meeting requirements of Section 12.04(B)(6).
- (f) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development Permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this article are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this article. This certification is not a substitute for an Elevation Certificate and an Elevation Certificate is not a substitute for the V-Zone Certification. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.
- (4) *Determinations for Existing Buildings and Structures.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (c) Determine and document whether the proposed work constitutes

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substantial improvement or repair of substantial damage; and

- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

(C) *Duties and Responsibilities of the Floodplain Administrator.* The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to ensure that the requirements of this article have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, and require that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 12.04(D) are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 12.03(B)(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Section 12.03(B)(3).

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- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with Section 12.03(B)(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 12.03(B)(3) and Section 12.04(B)(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 12.02(B), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, in order to administer the provisions of this article.
- (12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 12.02(B), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this article.
- (13) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the Floodplain Development Permit file.
- (14) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the

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community at any reasonable hour for the purposes of inspection or other enforcement action.

- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke Floodplain Development Permits as required. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout all Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Section 12.03(D).
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Section 12.02(B), including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

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(D) *Corrective Procedures.*

- (1) *Violations to be Corrected.* When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) *Actions in Event of Failure to Take Corrective Action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- (3) *Order to Take Corrective Action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he/she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days or less. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he/she may order that corrective action be taken in such lesser period as may be feasible.
- (4) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Town Clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

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(5) *Failure to Comply with Order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the Court.

(E) *Variance Procedures.*

(1) The Sunset Beach Board of Adjustment as established by the Town of Sunset Beach, hereinafter referred to as the "Appeal Board," shall hear and decide requests for variances from the requirements of this article.

(2) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

(a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(b) Functionally dependant facilities if determined to meet the definition as stated in Appendix A of this Ordinance, provided provisions of Section 12.03(E)(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(c) Any other type of development, provided it meets the requirements stated in this section.

(4) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

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- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined in Appendix A of this Ordinance as a functionally dependant facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood

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Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance will not be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located

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in Special Flood Hazard Areas provided that all of the conditions of Section 12.04 are met.

SECTION 12.04 PROVISION FOR FLOOD HAZARD REDUCTION

- (A) *General Standards.* In all Special Flood Hazard Areas the following provisions are required:
- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
 - (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
 - (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provision.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 - (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

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- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Section 12.03(B)(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

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- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (B) *Specific Standards.* In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 12.02(B), or Section 12.03(C)(11) and (12), the following provisions, in addition to Section 12.04(A), are required:
- (1) *Residential Construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A of this Ordinance.
 - (2) *Non-Residential Construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A of this Ordinance. Structures located in the AE Zone may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 12.03(B)(3), along with the operational plan and the inspection and maintenance plan.
 - (3) *Manufactured Homes.*
 - (a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Appendix A of this Ordinance.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by

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an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 12.04(B)(4)(a), (b), (c) and (d).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- (4) *Elevated Buildings.* Fully enclosed areas, of new construction and substantially improved structures, which are below the lowest floor or the lowest horizontal structural member in VE zones:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall not be temperature-controlled or conditioned.
 - (c) Shall be constructed entirely of flood resistant materials; and
 - (d) Shall include, in Zone AE, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of flood waters. To meet this requirement, the openings must either be certified by a professional engineer or architect, or meet or exceed the following minimum design criteria:
 - (i) A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;

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- (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow flood waters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of flood waters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (de) Shall, in Coastal High Hazard Areas (Zones VE), either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the elevated portion of the building, or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications are shall be met:
- (i) Material shall consist of open wood or plastic lattice having an opening ratio of at least 40 percent, or insect screening; or
 - (ii) Breakaway walls shall meet the following design specifications:
 - (1) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per 12.04(B)(4)(d);

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- (2) Design safe loading resistance of each wall shall be not less than ten (10) nor more than twenty (20) pounds per square foot; or
 - (3) Breakaway walls that exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.
- (iii) Concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:
- (1) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
- (f) Fill/Grading
- (i) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
 - (ii) The fill material must be similar and consistent with the natural soils in the area.
 - (iii) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered

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design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(5) *Additions/Improvements.*

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the

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market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

- (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure
- (6) *Accessory Structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas).
 - (b) Accessory structures shall not be temperature-controlled.
 - (c) Accessory structures shall be designed to have low flood damage potential.
 - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
 - (e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 12.04(A)(1).

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- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 12.04(A)(4).
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 12.04(B)(4)(c).

An accessory structure with a footprint less than one hundred forty-four (144) square feet that satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 12.04(B)(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 12.03(B)(3).

- (7) *Temporary Non-Residential Structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
 - (a) A specified time period for which the temporary use will be permitted. Time specified should not exceed three (3) months, renewable up to one (1) year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) *Tanks.* When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from

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hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 12.04(B)(2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(9) *Other Development.*

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 12.04(D) of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 12.04(D) of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs.

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Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 12.04(D) of this ordinance.

- (C) *Coastal High Hazard Areas (Zones VE)*. Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 12.02(B), and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions, in addition to the provisions of Section 12.04(A) and Section 12.04(B):
- (1) All new construction and substantial improvements shall:
 - (a) Be located landward of the reach of mean high tide;
 - (b) Be located landward of the first line of stable natural vegetation; and
 - (c) Comply with all applicable CAMA setback requirements.
 - (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
 - (3) All new construction and substantial improvements shall have the space below the lowest horizontal structural member of the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood or plastic latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of Section 12.04(B)(4)(e)(i). Design plans shall be submitted in accordance with Section 12.03(B)(1)(d)(iii)(2) and 12.03(B)(1)(d)(iii)(3); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Section 12.04(B)(4)(e). Design plans shall be submitted in accordance with the provisions of Section 12.03(B)(1)(d)(iii)(1).

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- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- (a) Water loading values used shall be those associated with the base flood.
 - (b) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- (5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:
- (a) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - (b) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
 - (c) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - (d) Pad thickness shall not exceed 4 inches; or
 - (e) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- (6) For swimming pools and spas, the following is required:
- (a) Be designed to withstand all flood-related loads and load combinations.
 - (b) Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
 - (c) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or

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- (d) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - (e) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - (f) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (7) All elevators, vertical platform lifts, chair lifts, etc., the following is required:
- (a) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - (b) Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - (c) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
 - (d) Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - (e) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.
 - (f) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
- (10) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 12.03(B) and Section 12.04(C)(3) and (C)(4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. In

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addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

- (11) Fill/Grading
 - (a) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
 - (b) The fill material must be similar and consistent with the natural soils in the area.
 - (c) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
 - (d) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- (12) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.
- (13) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.
- (14) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 12.03(B)(3).
- (15) A deck or patio that is located below the Regulatory Flood Protection Elevation

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shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

- (16) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
- (a) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - (b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
- (D) *Floodways and Non-Encroachment Areas.* Areas designated as floodway or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 12.02(B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of flood waters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 12.04(A) and (B), shall apply to all development within such areas:
- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
 - (b) A Conditional Letter of Map revision (CLOMR) has been approved by FEMA. A Letter of Map revision (LOMR) must also be obtained within six (6) months of completion of the proposed encroachment.

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- (2) If Section 12.04(D)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Section 12.04(B)(3); and
 - (b) The encroachment standards of Section 12.04(D)(1).
- (E) *Standards for Coastal A Zones (Zone CAZ) LIMWA.* All structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.
 - (1) All new construction and substantial improvements shall meet the criteria and provisions of Section 12.04(C).

SECTION 12.05 LEGAL STATUS PROVISIONS

- (A) *Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance.* This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted November 18, 1972 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Sunset Beach enacted on November 18, 1972, as amended, which are not reenacted herein are repealed.
- (B) *Effect Upon Outstanding Floodplain Development Permits.* Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Ordinance; provided, however, that when construction is not begun under such outstanding

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permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.

- (C) *Severability.* If any section, clause, sentence, or phrase of the Article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Article.
- (D) *Effective Date.* This ordinance shall become effective August 28, 2018.

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PART II. STORMWATER MANAGEMENT ORDINANCE

Development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Therefore, the Town of Sunset Beach establishes this set of water quality and quantity regulations to manage stormwater runoff and discharge.

A. Development Subject to Stormwater Requirements.

1. Development activities including one (1) or more acres of land disturbance requiring an erosion and sediment control plan or CAMA Major Permit shall be governed by the NC State Stormwater Regulations and the Brunswick County Stormwater Quality Management and Discharge Control Ordinance and shall obtain a State and County stormwater permit.
2. Residential development may not exceed forty-five (45) percent impervious surface of total lot area and the total amount of impervious surface must remain below the maximum impervious surface coverage allowed by any other regulatory agency.
3. In addition to the requirements from subsection (1) above, all development and redevelopment of single-family or duplex residences greater than two hundred (200) square feet must provide appropriate control systems that are any combination of infiltration systems, bio-retention systems, constructed stormwater wetlands, sand filters, cisterns, rain gardens, or alternative low impact development stormwater management systems designed in accordance with the NC Department of Environmental Quality's Stormwater Design BMP Manual and any Town required design criteria to control and treat the runoff from all surfaces generated by one and one-half (1 ½) inches of rainfall or less from all impervious surfaces on site.
4. All development and redevelopment projects not exempt from the provisions of this article must consider low impact development (LID) practices to analyze the infiltration capacity and natural drainages of the site and develop a system of controls which mimic the existing natural hydrology. An LID guidance manual and evaluation tools are available from Brunswick County.

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B. Stormwater Management Plan and Erosion Control Required.

1. A stormwater management plan shall be required prior to the issuance of any permits for new construction or renovation/expansion projects where the impervious surface coverage increases by greater than two hundred (200) square feet. For renovation/expansion of existing single-family or duplex residences all additional impervious surfaces must be controlled and treated in accordance with (3) above. If the renovation/expansion exceeds fifty percent (50%) of its reproducible value at the time of application the runoff generated from one and one-half (1 ½) inches of rainfall from all impervious surfaces, existing and new, must be controlled and treated in accordance with (3) above. All stormwater management plans must be designed according to the following:

- a) When the project adding impervious surfaces exceeds thirty thousand dollars (\$30,000.00) in value, the stormwater management plan shall be designed, inspected and approved after construction by a North Carolina professional engineer prior to issuance of a certificate of occupancy.
- b) When the project adding impervious surfaces is less than thirty thousand dollars (\$30,000.00) in value, the stormwater management plan shall be designed by a licensed professional engineer or surveyor and inspected and approved after construction by the UDO Administrator or designee prior to issuance of a certificate of occupancy.

2. For all development and redevelopment, no grading, cutting or filling shall be commenced until erosion and sedimentation control devices have been installed in order to retain sediment on the site. Erosion control devices must be maintained during all phases of construction and after development.

ARTICLE 13.

SUBDIVISION REGULATIONS

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PART I. PLAT PROCEDURE

SECTION 13.01 PRELIMINARY PLAT

- (A) The **preliminary plat** should be reviewed by the Technical Review Procedure (TRP) and a report of findings should be prepared for **Planning Board** review.
- (B) The Town **Planning Board** shall review the **preliminary plat** to ensure that the **subdivision** is equal to or exceeds the standards of this article and the applicable **zoning** regulations. Upon determination that these standards have been achieved, the **Planning Board** shall grant preliminary approval of the **subdivision** and inform the **Town Council** of this action at the next Council meeting.
- (C) Approval of a **preliminary plat** shall constitute tentative approval of a final **subdivision plat**. Such approval shall be valid for a period of one (1) year. The Planning Board may extend preliminary plat validity in six (6) month increments provided that reasonable progress has been made. A **preliminary plat** shall show the following:
- (1) *Name.* The **subdivision** name, the names and addresses of the owners, and the designer of the **subdivision**, and his/her qualifications.
 - (2) Date, approximate North arrow, and scale.
 - (3) **Lot Lines.**
 - (4) **Lot** Dimensions.
 - (5) *Boundaries.* The boundary line of the tract to be subdivided drawn accurately to scale and with accurate linear and angular dimensions.
 - (6) *Location Map.* A map showing the location of the **subdivision**.
 - (7) *Primary Dunes.* The location of the primary dunes as established by the **CAMA** regulations.
 - (8) *Existing Property Lines.* The location of existing and platted property lines, **streets**, buildings, water courses, railroads, bridges, water mains, sewers, culverts, drainpipes, and public utility **easements**, and the names of record owners of adjoining parcels of unsubdivided land.

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- (9) **Flood** hazard zones, **wetland** delineation, and **CAMA** jurisdiction all must be indicated on the **preliminary plat**.
 - (10) **Proposed Improvements**. The names, proposed location, and approximate dimensions of proposed improvements. Structural **encroachments**, such as gate houses, mail boxes, and entrance signs, etc., within private right-of-ways must show the dimensions of the **structure** and not be located in the site visibility triangle. Legal agreements stating the responsibility as to the maintenance of the **structures** will be provided.
 - (11) **Streets** marked public or private.
 - (12) Show all sidewalks and **street** profiles.
 - (13) Open Space Requirements for Single Family Developments reference Article 7.34 Supplemental Regulations.
- (D) The above required information should be graphical only, not requiring detailed computations of field work over and above what is needed to obtain the basic information. In all cases, proposed characteristics shall be shown in a manner that shall distinguish them clearly from the existing characteristics of the land.
- (E) In addition to the above, the following information shall be provided upon request by the **Planning Board**:
- (1) **Profiles**. When deemed necessary, profiles of all **streets** showing natural and finished grades drawn to scale may be required to eliminate standing water and erosion caused by excessive runoff.
 - (2) Underground Electrical Service Approval – Underground electrical service approval shall be submitted with the preliminary plat indicating that each lot has adequate land area and suitable topography to accommodate the proposed methods of electrical supply.
 - (3) **Water Supply and/or Sewage Disposal Approval**. Where public water or public sewer is not available for extension to each **lot** in the **subdivision**, a written statement from a certified soil scientist, approved by Brunswick **County**, shall be submitted with the **preliminary plat** indicating that each **lot** has adequate land area and suitable topography to accommodate the proposed methods of water supply or sewage **disposal**.

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- (4) Other information as deemed necessary by the **Planning Board**.
- (F) The **preliminary plat** shall show the location of the proposed **streets**, public or private, **alleys**, culs-de-sacs, or other public ways.
- (G) **Private Areas within Subdivisions.**
- (1) The **Planning Board** shall be assured, prior to **final plat** approval, that adequate provisions have been made through legal covenants and restrictions which shall govern a homeowners' association, or through other legal agreements, that the responsibility as to the maintenance of the **streets**, utilities, or other areas designated as private areas or as a common area will be accomplished by a source other than by public maintenance.
- (2) The subdivider shall provide and sign an acknowledgment of compliance as specified in Section 13.02. Such acknowledgment shall appear on the **final plat** of the **subdivision**.
- (H) **Sidewalks, Walkways, and Bikeways.**
- (1) Sidewalks, walkways, and other pedestrian ways shall be provided by the subdivider within or adjacent to a **subdivision**, as deemed necessary by the **Planning Board**, upon reasonable evidence that the sidewalks, walkways, or other pedestrian ways would be essential for pedestrian **access** to community facilities, that such is necessary to provide safe pedestrian movement outside the **street** or **street** right-of-ways area or that such is an extension or could reasonably become an extension of existing sidewalks, walkways, and other pedestrian ways. All sidewalks, walkways, and other pedestrian ways shall be aligned as required by the **Planning Board** and designed and constructed to conform to Chapter 98 of the Code of Ordinances. Sidewalks shall be indicated on all preliminary plans as outlined above.
- (2) **Private streets. Streets** designated as private in accordance with the paragraph above may be allowed in **subdivisions** when, in the opinion of the **Planning Board**, they provide adequate ingress and egress onto collector **streets**, and they provide sufficient assurance through legally established homeowners' or similar owners' associations, deed restrictions, and/or covenants, or other maintenance agreements, that said **street** shall be properly maintained and said agreements perpetually carried with the land. The **Planning Board** shall reserve the authority, when the public welfare and safety warrant, requiring the public dedication of

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street right-of-ways within *developments*. All *private streets* shall be designed and constructed to meet or exceed the public *street* standards as specified in Chapter 98 of the Code of Ordinances.

SECTION 13.02 FINAL PLAT

The Town *Planning Board* shall review the *final plat* to ensure that the *subdivision* is equal to or exceeds the standards of this article and the applicable *zoning* regulations and any applicable other federal, state, county or local regulations. No subdivision or planned residential development (PRD) shall be recorded nor any structural building permit issued within a proposed subdivision until all Town requirements have been met and all required infrastructure has been installed and approved by the appropriate Town officials. Upon determination that these standards have been achieved, the *Planning Board* shall grant *final plat* approval of the *subdivision* and inform the *Town Council* of this action at the next Council meeting. Notwithstanding the above, qualified expedited minor subdivisions are to be approved administratively by the UDO Administrator in accordance with Section 13.02(C).

- (A) *Submitting the Final Plat.* After the *preliminary plat* has been approved, and all required infrastructure installed and approved, the final *subdivision plat* as described in Section 13.05 shall be submitted electronically along with as-built plans showing water lines, wastewater lines, stormwater facilities, roads, utilities and any other improvements. This final *subdivision plat* must be submitted for final approval before any building permits may be issued and prior to expiration of the *preliminary plat*. Such owner or subdivider shall submit one (1) original mylar and two (2) paper copies of the *final plat* as required by the *County*, properly signed and executed as required for recording in the office of the *Register of Deeds* of the *County*.
- (B) *Conformity with Preliminary Plat.* The *final plat* shall conform with the *preliminary plat* as approved. If desired by the owner or subdivider, the *final plat* may constitute only that portion of the approved *preliminary plat* which the developer proposes to record and develop at the time, provided that the *Planning Board* shall find that the portion of the *subdivision* is reasonably located with respect to existing roads and utility lines, that such portion shall conform to all requirements of this article, and that all infrastructure is planned and installed to adequately serve all lots shown on the final plat.
- (C) *Expedited minor subdivisions.* For qualifying, *expedited minor subdivisions*, to be approved administratively by the *UDO Administrator*, only a *final plat* for recordation is required for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

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- (1) The tract or parcel to be divided is not exempted under G.S 160D-802(a).
- (2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (3) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (4) After division, no more than three lots result from the division.
- (5) After division, all resultant lots comply with all of the following:
 - (a) All lot dimension size requirements of the applicable zoning district.
 - (b) The use of the lots is in conformity with the applicable zoning district.
 - (c) A permanent means of ingress and egress is recorded for each.

SECTION 13.03 GUARANTEE OF IMPROVEMENTS

All required improvements required by Section 13.08, except the final lift of asphalt on roadways and minor improvements such as required landscaping, shall be installed, inspected, and approved prior to approval of any final plat. The County Engineer shall determine if the water and sewer utilities work is satisfactory and complete. A Subdivision Improvement Agreement shall be entered into for the purpose of guaranteeing the proper installation of the final lift of asphalt on roadways and any other approved minor improvements according to the requirements of this Section. In addition, a workmanship guarantee shall be provided for all required improvements according to the requirements of subsection E.

- (A) **Subdivision Improvement Agreements.** The **UDO Administrator** shall have the authority to review and approve all **subdivision** improvement agreements. The Subdivision Improvement Agreement shall guarantee completion of all eligible on-site and off-site public improvements no later than one (1) year following the date upon which the **final plat** is recorded unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one (1) year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. ~~Such period may be extended for up to an additional six (6) months upon its expiration at the discretion of the UDO Administrator.~~ A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the guarantee or any extension. If the improvements are not completed to the specifications of Town, and the current improvement guarantee is likely to expire prior to

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completion of the required improvements, the guarantee shall be extended by **the UDO Administrator** for additional period not to exceed six (6) months. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. The **Applicant** shall bear the responsibility to prepare a **Subdivision** Improvement Agreement. The Town Attorney shall approve any **Subdivision** Improvement Agreement as to form.

- (B) *Performance Security.* Whenever an **applicant** is subject to enter into a **Subdivision** Improvement Agreement, the **applicant** shall be required to provide sufficient security to ensure completion of the required public improvements. The security shall be in any form authorized by NCGS ~~160A-372(g)~~ 160D-804.1(1). If in the form of a surety bond, the bond shall be reviewed annually.

The letter of credit, cash escrow, or surety bond, or other approved guarantee shall be in an amount reflecting one hundred twenty-five percent (125%) of the cost of the improvements and shall be sufficient to cover all promises and conditions contained in the **Subdivision** Improvement Agreement. An engineer selected by the Town shall review and approve the estimated cost of improvements before the Agreement is executed. The **applicant** shall be required to pay for the cost of such services. The estimated cost shall be broken down separately for each element of the agreement. In addition to all other security, when the Town participates in the cost of an improvement, the **applicant** shall provide a performance bond from the contractor, with the Town as a co-obligee. The issuer of any surety bond shall be subject to the approval of the Town Attorney and the **UDO Administrator**.

If security is provided in the form of a cash escrow, the **applicant** shall deposit with the Town Finance Director a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified herein. The surety bond or cash escrow account shall accrue to the Town for administering the construction, operation, and workmanship of the improvements. Where oversized facilities are required, the **UDO Administrator** and **applicant** shall specify a reimbursement procedure in the **Subdivision** Improvement Agreement.

- (C) *Release of Performance Security.* Upon completion of all improvements required by the **Subdivision** Improvement Agreement, the **UDO Administrator** shall have the work inspected. If the **UDO Administrator** determines that the work is satisfactory and complete, the letter of credit, cash escrow, or surety bond shall be released. The **UDO Administrator** shall also require evidence from the subdivider that all contractors have been paid in full prior to the release of the performance security.

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- (D) *Failure to Complete Improvements.* If a **Subdivision** Improvement Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the **UDO Administrator** may:
- (1) Declare the Agreement to be in default thirty (30) days prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the **development** at the time the agreement is declared to be in default;
 - (2) Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;
 - (3) Assign its right to receive funds pursuant to the surety in whole or in part to any third party, including a subsequent owner of the **subdivision** or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's Agreement to complete the required public improvements; and/or
 - (4) Exercise any other rights available under the law.

~~(E) *Workmanship Guarantee.* The **applicant** shall guarantee all improvements against defects in workmanship and materials for a period of one (1) year from the date of acceptance of such improvements.~~

~~Thirty (30) days prior to the expiration of the workmanship guarantee, if any defects in workmanship and/or materials are not repaired to the satisfaction of the **UDO Administrator**, the **applicant** shall be required to make all necessary repairs immediately. Failure to complete improvements will result in penalties as outlined in this Ordinance.~~

SECTION 13.04 RECORDING PLAT

No **plat** shall be recorded until the final **subdivision plat** is approved in accordance with this article.

SECTION 13.05 INFORMATION TO BE SHOWN ON FINAL PLAT

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The **final plat** shall be a reproducible map acceptable to the Brunswick **County Register of Deeds** office for recording purposes and shall contain the following:

- (A) **Boundaries.** The exact boundary of the tract of land being subdivided, showing clearly the disposition of all portions of the tract into designated tracts, **lots, streets, alleys**, parks, **open spaces, easements**, or other classifications, the exact location and width of all existing or recorded **streets** and intersecting the boundary of the tract being subdivided, and the names of adjoining **subdivisions** or the names of record owners of adjoining parcels of unsubdivided land.
- (B) **Streets.** The lines and names of all **streets, alleys, lines, lot lines**, building lines, **easements**, and areas devoted to public use, with notes stating their purposes and **lot** and block numbers. All **streets** must be designated on the **final plat** as "Public or Private."
- (C) **Title.** A note shall appear on the **final plat** stating the deed reference under which title to the property being subdivided is held.
- (D) **Lines.** Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every **street** and **alley** line, **lot line, easement**, boundary line, block line, and building line whether straight or curved. This shall include tangent distance, the central angle, the radius, arcs, and chords of all curves. All linear dimensions shall be given in feet and hundredths thereof, and angular dimensions shall be of comparable accuracy within the limits of good surveying.
- (E) **Permanent Monuments.** Unless previously existing, a minimum of two (2) permanent control monuments of stone or concrete shall be placed at the point of intersection on the centerline of intersecting public or **private street** right-of-ways or at the point of intersection of the tangents of curves when such point lies within the pavement of the proposed **street**. Otherwise, monuments shall be placed on the centerline at the points of curvature and at the points of tangency of curves which are to be dedicated for **street** purposes. A table of dimensions, or dimensions between control monuments, shall be shown on the map. Metal castings or **access** boxes for the control monuments mentioned above shall be placed in the pavement prior to release of final sureties for road construction or final approval of road construction. Such monuments shall be set nine (9) inches below the finished grade of the pavement. A metal casting of approved type will be mounted over said monument with its base flange mounted on a brick foundation with mortar joints of at least two (2) course thickness, the top of which must be a minimum of one and three-quarters (1.75) inches higher than the highest point of the monument. Permanent monuments shall be at least thirty (30) inches in length, six (6) inches in diameter and shall

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have a metal pin or punch-marked metal plate embedded therein marking the point represented on the *final plat*.

In addition to the two (2) required Control Monuments, a control point (i.e., railroad spike, P.K. nail, iron rod, rebar, etc.) shall be set at all other centerline intersections, points of curvature, and points of tangency prior to recordation. In the event that these points are destroyed during initial project construction, it shall be the subdivider's responsibility to have said points replaced in their original horizontal positions.

- (1) **Lot Corners.** All *lot corners*, other than those marked by permanent monuments as described herein, shall be marked by metal stakes not less than three-quarters (0.75) inches in diameter, or less than two and one-half (2.5) feet in length.
 - (2) **Existing Public Right-of-Way.** When a *lot* or *lots* within a *subdivision* abut an existing public *street*, highway, or thoroughfare, the subdivider shall be responsible for the installation of all improvements to that portion adjacent to and which is to be utilized by that *subdivision*.
 - (3) **Pedestrian Crosswalks.** Where deemed necessary by the **Planning Board**, a pedestrian crosswalk at least fifteen (15) feet in width may be required through a block to provide convenient public *access* to a public or common area such as a park, *open space* area, school, or a water area.
- (F) **Name of Registered Surveyor.** The title, including the name of the *subdivision*, the name of the registered surveyor under whose supervision the *plat* was prepared, the date of the *plat*, and a North arrow.
- (G) **Required Statements, Certificates, and Forms.**
- (1) **Certificate of Ownership and Dedication.** A certificate of ownership and dedication shall be shown properly completed and signed by the owners and all other interested parties, similar in wording to the following:

"The undersigned hereby acknowledge(s) this *plat* and allotment to be (his, her, their) free act and deed, and hereby dedicate(s) to public use as *streets*, playgrounds, parks, *open spaces*, and *easements* forever all areas so shown or indicated on said *plat*.

Signed"

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- (2) All property shown on the **plat** as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by the Town Charter or any general, local, or special law pertaining to the Town, when such other use is approved by the **Town Council** as in the public interest.
- (3) **Street**, utility, and drainage maintenance disclosure statements signed by the owner and/or subdivider for private **development**.
- (4) All **structures** to be constructed, improved, or rehabilitated within the area delineated as the one hundred (100) year **flood** area on the "**Flood** Boundary and **Floodway** Map, Town of Sunset Beach" shall be constructed, improved, or rehabilitated in conformance with the Town's **flood** management regulations (Article 12, Part I).
- (5) All **lots** as depicted on the **plat** meet or exceed the minimum area and dimensional requirements of the **zoning** district in which located.
- (6) The availability of water and/or sewer service to the **lots** in this **subdivision** is subject to the completion of certain water and/or sewer line extensions by the Town, and certificates of occupancy will not be issued for **structures** on such **lots** until such extensions are completed.
- (7) *Certificate of Registration by **Register of Deeds**.*

State of North Carolina
County of Brunswick

Filed for registration on the _____ day of _____, 20_____
at _____ (a.m./p.m.) and duly recorded in Map Book _____ at
Page _____.

Register of Deeds

- (8) *Certificate of Accuracy and Mapping.*

I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision); deed description in Book _____, Page _____, Book _____, Page _____, etc. (other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed

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are shown as broken lines plotted from information found in Book _____,
Page _____; that this map was prepared in accordance with G.S. Section
47-30 as amended.

Witness my hand and seal this _____ day of _____, 20_____.

Surveyor

State of North Carolina
County of Brunswick

I, _____, a Notary Public for said County and State, do hereby certify that
_____ personally came before me this day and acknowledged the due
execution of the foregoing instrument.

Witness my hand and official seal, this _____ day of _____, 20_____.

Official Seal

Notary Public

My Commission Expires: _____

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(H) *Form of Endorsement.* A form for the endorsement of the Town shall be stamped on the **Final Plat** before recording.

(I) *Certificate of Ownership and Dedication.*

I (we) hereby certify that I am (we are) the owner (s) of the property shown and described hereon and that I (we) hereby adopt this plan of a **subdivision** with my (our) own free consent, establish minimum **setback** lines, and dedicate all **streets, alleys, walks, parks** and other sites to public or private use as noted.

Further, I (we) certify the land as shown hereon is within the **planning** jurisdiction of the Town of Sunset Beach, North Carolina.

Date _____ Owner _____

(J) *State Board Compliance.* The **final plat** shall conform in all ways to G.S. ' 47-30 as amended and to the State Board of Registration for Professional Engineers and Land Surveyors "Manual of Practice for Land Surveying."

(K) *Enforcement - No Service or Permits Until Final Plat Approved.* No **street** shall be accepted and maintained by the Town nor shall any **street** lighting be installed and added to the existing Town systems until the **final plat** is approved.

SECTION 13.06 CRITERIA; STANDARDS FOR APPROVAL

(A) **Site Plan.** *Site plans* for all planned **development** shall show the location of the buildings, **streets, alleys, walks, parking areas, signs, recreation areas, and tree covers** that are **significant stands of trees** or of historical value. The **site plan** shall number and show the dimensions of all building sites and all **streets** and utility **easements** to be dedicated to the public. All areas on the **site plan** other than public **streets, easements, or private building sites** shall be shown and designated as common areas.

(B) Adverse impacts upon the natural or existing topography and soil conditions shall be minimized.

(C) Each phase of the planned **development** must show a plan for **significant stands of trees** that are to be preserved; except where the entire site is wooded or largely wooded in which case the developer shall seek to retain as many trees as is practical. In any case,

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removal of **regulated trees** will not be approved unless one or more of the following situations exist:

- (1) The **applicant** is able to show that essential site improvements cannot be installed without removal of the **regulated tree(s)**. Examples of essential site improvements are **streets**, underground utilities, driveway storm water management facilities, and site amenities, and so on.
 - (2) The **regulated tree** is dead, severely diseased, injured, or in danger of falling close to existing or proposed **structures**.
 - (3) The **regulated tree** poses an identifiable threat to individuals or **public safety**.
 - (4) Removal of the **regulated tree** is necessary to enhance or protect the health or condition of adjacent trees.
- (D) Proposed **development** of commercial or professional property in all nonresidential zones, and additions or alterations to existing properties which increase building size or parking requirements, are subject to review and approval of a site **development** plan prior to a building permit being issued. A single **site plan** may be prepared to a scale of one (1) inch equals fifty (50) feet (minimum) or twenty four (24) inch by thirty six (36) inch sheets showing all required information, or separate plans may be submitted on the required categories as follows:
- (1) A current survey of the property signed and sealed by a licensed surveyor shall show the following:
 - (a) Vicinity or location map.
 - (b) Name of designer, engineer or surveyor.
 - (c) North arrow.
 - (d) Owner's or developer=s name and address.
 - (e) **Development** name.
 - (f) Date.
 - (g) Boundary line of tract to be developed drawn accurately to scale with linear and angular dimensions.

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- (h) Total gross acres in the tract.
 - (i) Total acres occupied by all **structures** (including parking areas).
 - (j) If proposed **new construction** is within the **CAMA** AEC, the survey and proposed **site plan** shall indicate the **CAMA setback** line and the **building setback line**.
- (2) Dimensional **site plan** showing:
- (a) Location of **structures**, including any proposed **signs**.
 - (b) Driveways.
 - (c) **Parking spaces**, handicapped spaces, and **access** ramps.
 - (d) Off-*street* loading.
 - (e) Dumpster locations and screening.
 - (f) Proposed **fences** and walls.
 - (g) Structural **encroachments** within private right-of-ways.
- (3) Landscape Plan Showing:
- (a) Perimeter **buffering**.
 - (b) **Street** and interior landscaping within parking areas and percentage ratio thereof.
 - (c) Maintenance.
- (4) *Adequate Drainage System*. **Subdivisions** will be required by the Town to provide a ten (10) foot **stormwater easement** around the perimeter of the **development**. The **subdivision** must comply with all of the requirements of the **stormwater** management plan.
- (5) All **streets, alleys, or easements** must meet the Standards of Chapter 98 of the Code of Ordinances.

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- (6) Utilities plan showing:
 - (a) Location of tie-in of all utilities.
 - (b) On-site water and sewer layout.
 - (c) Location of fire hydrants.

If property abuts a North Carolina State highway, a copy of the driveway permit issued by the NCDOT must be submitted with the *site plan*.

SECTION 13.07 FEES

Refer to Section 2.16.

SECTION 13.08 REQUIRED IMPROVEMENTS AND MINIMUM STANDARDS OF DESIGN FOR SUBDIVISIONS

- (A) *Required Improvements.* Each *subdivision* of this Ordinance shall contain the following improvements:
 - (1) Graded *Streets* or *Easements*.
 - (2) *Construction Entrances.* Where applicable, it is recommended that construction vehicles shall be afforded entrances and exits separate from the developed portions of the *subdivision* to preserve the integrity of paving in such areas; entrances and exits to such developed areas shall exhibit a *sign* or *signs* bearing the legend "NO CONSTRUCTION VEHICLES" and directing such traffic to the appropriate entrance.
 - (3) Adequate Drainage System.
 - (4) Installation of water distribution and sewage collection lines within the *subdivision* and connection to the Town's water and/or sewage system where the Town's system exists adjacent to the *subdivision* or the property being subdivided, where feasible.
 - (5) *Street* Name Markers.
 - (6) Monuments as required by the NCGS Chapter 39, Article 5.
 - (7) Official Speed Limit and Stop *Signs*.

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(8) Underground electric service to serve all development within the subdivision. However, the developer shall not be required to bury power lines when the power lines existed above ground at the time of first approval of a plat or development plan by the Town, whether or not the power lines are subsequently relocated during construction of the subdivision or development or the power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

(B) *Design Standards.*

- (1) Design Standards for **Streets** as set forth in Chapter 98 of the Code of Ordinances.
- (2) **Marginal Access Streets.** Where a tract of land to be subdivided adjoins an existing major thoroughfare, the subdivider will be required to provide a marginal **access street** parallel to the major thoroughfare, or reverse frontage on a **subdivision street** to be developed adjacent to the major thoroughfare. Where reverse frontage is established, private driveways shall be prevented from having direct **access** to the major thoroughfare. If it is demonstrated that a marginal **access** or reverse frontage is not feasible, **lots** fronting on a major thoroughfare must be a minimum of one hundred (100) feet wide with a turning circle or a drive way with a three (3) point turn.
- (3) **Signs.** **Signs**, within the **subdivision**, desired by the developer, must be indicated on a plan showing the location of the **signs** and a description indicating height, color, wording, etc. The plan must be approved by the **Planning Board** before a **sign** permit may be issued. A permit must be issued before any **signs** are **erected**. Any changes in the **sign** plan approved by the **Planning Board** must be submitted to the **Zoning** Officer before a **sign** permit is issued.
- (4) **Official Traffic Signs.** All **subdivision streets** shall have official speed limit and stop **signs erected** in accordance with the NCDOT regulations. Posted speed limits shall be determined by Town Ordinances.

SECTION 13.09 PENALTY FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS

Any person who, being the owner or agent of the owner of land located within the regulatory jurisdiction of the Town, subdivides his/her land in **violation** of this Ordinance or transfers or sells land by reference to, exhibition of, or any other use of a **plat** showing a **subdivision** of the land before the **plat** has been properly approved under the provisions of this Ordinance and recorded in

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the office of the Brunswick **County Register of Deeds**, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town, through its attorney or other official designated by Council, may enjoin illegal subdivision, transfer, conveyance, or sale of land by action of injunction. The **UDO Administrator** will inform the **Town Council** of the action at the next Council meeting.

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PART II. PLANNED RESIDENTIAL DEVELOPMENT (PRD)

SECTION 13.10 PURPOSE

Through PRD, the Town can allow **development** of land that has a higher degree of consideration of physical features and natural constraints to **development** than would be possible under general **zoning** or **subdivision regulations**. PRD is expected to promote a more efficient use of the land, a higher level of amenities, and more creative designs than would otherwise be possible. In each case, the overall density of **dwelling** units shall be less than that permitted by the applicable **zoning** requirements.

SECTION 13.11 PRD AND GENERAL ZONING AND SUBDIVISION REGULATIONS

The standards in this section providing for PRD's are intended to accomplish the purposes of the Land Use Plan and its implementation vehicles, the general **Zoning** Ordinance, and the **Subdivision Regulations**; however, greater demands have been placed on the developer in this section so that the provisions of this section must be exclusive for a **development** electing to proceed using this method.

SECTION 13.12 EXCEPTIONS FOR PLANNED DEVELOPMENTS

The purpose of this section is to provide desirable **open space** in commonly owned areas, tree cover, recreation area, scenic vistas, and variety in **development** by allowing certain variations in **lot** size and design requirements and the establishment of cluster homes. A special permitted use is required. The design standards as set forth in this article may be modified by the **Planning Board** in the case of a plan and program for a planned **development** which may consist of **townhouses** and residences or any other desirable combination of these establishments which meet the requirements of this Ordinance. Proposed ownership of planned **developments** may be by one individual, partnership, corporation, cooperative, or any desirable combination. A preliminary and **final plat** of a planned **development** shall be submitted pursuant to the provisions of this section in conformity with the following:

- (A) *Common Areas.* All planned **developments** shall contain commonly owned land equal in area to thirty-five percent (35%) of the entire **development**. This commonly owned land shall consist of recreational and **open space** areas. Minimum assured recreation/**open space** shall be a percentage of the gross site area integrated throughout the PRD and accessible to the housing units. Assured recreation/**open space** shall be lands other than **wetlands**. In some instances, use of **wetlands** as **open space** may be presented for consideration by the **Planning Board**. When a PRD project is located on a **golf course**,

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the **golf course** may be counted as common area under the following conditions: the **Golf Club Property** shall be used only for a **golf course** facility, clubhouse and other uses consistent with the operation of a Golf Club Facility (which would have been previously defined as the **Golf Course** and other facilities located on the **Golf Club Property**, e.g., **swimming pool**, tennis and volleyball courts, and other amenities customarily associated therewith) and no **structure** or other improvement (which would be previously defined) shall be **erected**, altered, placed or permitted thereon, except as is consistent with the use of such property as a Golf Club Facility. Provided, however, that the **Planning Board** may allow such other usage of the **Golf Club Property** as the **Planning Board** considers consistent with the definition of **Open Space**. PRDs are allowed up to seventy-five percent (75%) credit toward the TOTAL applicable **open space** REQUIREMENT for commercial recreational areas such as **golf courses**.

- (B) When **golf courses**/golf properties (regardless of ownership) are used in any fractional part, from one percent (1%) to the maximum allowable in this section of seventy-five percent (75%) as a credit toward the applicable **open space** requirement in a PRD, the developer or any subsequent owner of said property may not alter the character or use of any of the **golf course** property and any associated recreational facilities (such as **swimming pools**, tennis and volleyball courts, and other such amenities) except to improve such facilities. These restrictions are to be made a permanent part of the deed(s) and recorded covenants for any PRD properties containing the aforesaid **open space** properties and may not be altered in any manner by current or any future owner or owners.
- (C) If the developer desires, improvements may be made within the common areas provided that maximum coverage of such improvement shall not exceed twenty-five percent (25%) of the entire common property. The developer shall submit and, after approval by the **Planning Board**, record a declaration of the covenants and restrictions that will govern the ownership, management, and maintenance of the common area.
- (D) *Site Plan.* **Site plans** for all planned **development** shall show the location of the buildings, **streets**, **alleys**, walks, parking areas, recreation areas, tree covers, and plantings. The **site plan** shall number and show the dimensions of all building sites and all **streets** and utility **easements** to be dedicated to the public. All areas on the **site plan** other than public **streets**, **easements**, or private building sites shall be shown and designated as common areas.
- (E) *Landscape Plan.* A landscape plan for all planned **development** shall show all existing and proposed plant material. The plan shall indicate the size and type of existing plant material and the size and type of plants to be planted.

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- (F) *Public Access, Easements, and Private Party Walls.* Building **lots** may abut or be provided with frontage on common areas, properly restricted through a property owners association to assure adequate **access**, if in the opinion of the **Town Council** a public **street** is within an acceptable distance and would allow adequate community services. **Easements** over the common areas for **access**, ingress, and egress from and to public **streets** and walkways and **easements** for enjoyment of the common areas, as well as for parking, shall be granted to each owner of a residential site. All common walls between individual residences shall be party walls and provisions for the maintenance thereof and restoration in the event of destruction or damage shall be established.
- (G) *Utilities and Improvements Required.* All planned **developments** shall include public water and sewer utilities, paved **streets** and parking areas, underground electric and telephone service, landscaping, and any other improvements considered necessary by the **Planning Board**.

PART III. PROCEDURE FOR PLANNED RESIDENTIAL DEVELOPMENT APPROVAL

SECTION 13.13 APPLICATION

The developer shall submit an application for a PRD to the **UDO Administrator** in the following format. The application will address natural features, existing conditions, and proposed **development** plans in terms of number and types of units and general location. This application will be accompanied by the following information.

- (A) Mapping at a scale of one (1) inch equals one hundred (100) feet:
- (1) Soil types;
 - (2) Topography;
 - (3) Vegetation (both general cover in term of hardwood or pine trees and shrub or brush, and specific types where they may be significant or unique);
 - (4) **Wetlands**;
 - (5) Areas of environmental concern; and
 - (6) Existing **structures**, utility lines, and such.

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- (B) A report on soils and their suitability for *development*.
- (C) Interpretive maps showing drainage and *flood* areas.
- (D) A rough, general map showing at the same scale:
 - (1) Proposed road and circulation system;
 - (2) Location of buildings; and
 - (3) Location and type of *open space*.
- (E) A report addressing the changes in the existing or natural system as a result of the proposed *development*.
- (F) A report addressing the impact on the fiscal resources of the Town, including additional tax revenues anticipated and additional costs, such as police, garbage, mosquito control, water, roads, and the like.

SECTION 13.14 REVIEW OF APPLICATION

Within thirty (30) days from the submission of an application, including supporting documents, the **UDO Administrator** shall review the application for completeness and indicate areas of insufficient information which shall be corrected. Nothing in this report shall constitute an acceptance of the plan of *development*. The developer shall cure any identified deficiencies within one hundred eighty (180) days of notice of same. In the event that the developer does not accept this determination, *appeal* shall be to the Board of Adjustment for a decision.

SECTION 13.15 CIRCULATION OF APPLICATION

Immediately following the submission of an application, the **UDO Administrator** shall take such steps as are necessary to obtain a review by the TRP to determine the completeness of the information and a preliminary indication of project and application completeness. The **UDO Administrator** shall also investigate requirements of the State and **County** concerning sanitary waste *disposal*. The results of this review, together with the indication of sufficiency of information, shall be presented to the *applicant*. The **UDO Administrator** will present the detailed plan to the **Town Council** for its review of the fiscal impact on the Town's financial planning (change in tax base and increase in services for police, garbage, and public works if applicable).

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SECTION 13.16 APPLICANT CONFERENCE

In the event that the **UDO Administrator** determines that the rough, general design in the application is unlikely to meet the standards in this section dealing with PRD's, or that a design which maximizes the objectives of this zone has not been considered, he/she may require the **applicant** to meet with him/her to discuss alternative designs. In this event, an additional thirty (30) days shall be added to the review of the application.

SECTION 13.17 SITE DEVELOPMENT PLAN

- (A) Following the determination of completeness of the information and the conference to consider alternative **development** plans (where necessary), the developer shall submit the following information:
- (1) A resubmission of information requested, see Section 13.13 (A) - (C) and a revision of Section 13.13(F).
 - (2) A **development** plan map showing;
 - (a) Location, size, and type of **structures**; and approximate sizes and dimensions of **lots**.
 - (b) Location, size, and dimensions of **open space**.
 - (c) Location, dimension of proposed road and circulation system, or off-**street** parking areas, loading and service area, **access** to public right-of-ways, pedestrian circulation system, and proposed utility systems.
 - (d) Landscaping plans, including areas to be cut and filled, cleared, and planted; alterations of drainage.
 - (e) Location and dimensions of other features required to be shown on a case by case basis, such as parking, recreation areas, beach **access** areas, public parks, and the like.
 - (3) A report analyzing the impacts on the existing or natural system as a result of the proposed **development**.
 - (4) A report setting forth a schedule of construction (phases and stages of **development**), a summary of quantitative data (total number and type of

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dwelling units, parcel size, *lot* coverage, densities, amount of *open space*), a plan for the maintenance and ownership of *structures* and *open space*, and an analysis of design features used to reconcile the PRD with neighboring or adjoining property use.

- (B) Upon submission of the above information, to be referred to as the Preliminary Site *Development Plan*, the *UDO Administrator* shall request of the Board of Adjustment a date for hearing and review.

SECTION 13.18 BOARD OF ADJUSTMENT ACTION

The Board of Adjustment shall review the preliminary plan and approve, conditionally approve, or disapprove the plan. In order to assist them in their review, the *UDO Administrator* shall request that all administrative agencies in the *County* file formal reports of the site *development* plan analyzing the impacts relevant to them, the extent to which the plan appears to have addressed these impacts, and additional mitigation measures they recommend. The *UDO Administrator* shall also file a formal report addressing the plan and its impacts and alternative measures that might be used to mitigate impacts (if any).

SECTION 13.19 FINAL PLAT

The final plat of a Planned Residential Development (PRD) shall be approved in the same manner as a traditional subdivision pursuant to Part 1 of this Article, provided that an approved PRD Site Development Plan shall serve as an approved preliminary plat for the purposes of final plat approval and shall conform substantially with the approved Site Development Plan or phase or subsection thereof.

SECTION 13.20 STANDARDS FOR APPROVAL; CRITERIA

- (A) Instead of meeting the general *zoning* dimensional requirements and other standards, excluding those dealing with *signs*, the *planned residential development (PRD)* shall meet the following requirements:
- (1) The minimum parcel size shall be four (4) acres.
 - (2) The density for the entire tract shall be a combination of the proportionate shares of acreage in each of the *zoning* districts in which the tract is located. This is accomplished by clustering which involves the ability to transfer unused densities on one part of a tract to another part of a tract. Clustering would be a special permitted use in zones MR-1, MR-3, and BR-2 for a *planned residential development*.

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- (3) Buildings shall be arranged in such a manner that noise and illumination created from the **planned residential development** will not significantly interfere with the use of neighboring properties. No building shall exceed four (4) **dwelling** units under one (1) roof and shall be arranged on the site to provide maximum separation between buildings. In no case shall it be less than twenty (20) feet. **Bedrooms** under one roof shall not exceed twelve (12).
- (4) Buildings and **structures** closest to **adjacent property** lines shall be designed to complement the uses in the surrounding area.
- (5) No building or **structure** shall be within fifty (50) feet of an adjoining property line to the tract; a natural or artificial **buffer** consisting of fencing or a wall, trees, or shrubs of the type which are three (3) feet or greater at the time of planting with the likelihood of reaching six (6) feet within three (3) years, shall be constructed or planted between any building and adjoining property lines.
- (6) **Streets** carrying local traffic within the PRD shall have a minimum right-of-way of thirty (30) feet in width. Eighteen (18) feet of the right-of-way must be paved with shoulders a minimum width of six (6) feet. **Streets** and roads connecting directly to Town or State roads shall have a fifty (50) foot right-of-way within five hundred (500) feet of the intersection. A utility **easement** of at least ten (10) feet in width for use in maintenance activity by vehicles and equipment of the Town of Sunset Beach must be dedicated and recorded.
- (7) No buildings or **structures** shall be allowed to build in the **wetlands**.
- (8) All buildings shall be **floodproofed**.
- (9) No sewer system will be located within two hundred (200) feet of estuarine waters, or one hundred (100) feet of public trust waters.
- (10) Adverse impacts upon the natural or existing topography and soil conditions shall be minimized.
- (11) The amount of cut and fill shall be limited to affecting no more than fifty percent (50%) of the site.
- (12) Fill shall not encroach upon natural **watercourses**, their **flood** plains, or constructed channels in a manner so as to adversely affect other properties or the water bodies.

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- (13) Sediment traps, basins, and other control measures for limiting erosion shall be coordinated with construction plans.
- (14) **Existing trees** shall not be cut or otherwise damaged or destroyed within portions of property to be used for required **buffer** requirements.
- (15) **Significant stands of trees** containing five (5) or more hardwoods or fifteen (15) or more softwoods and exceptional or historical trees are to be preserved; except where the entire site is wooded or largely wooded in which case **development** shall seek to retain as much vegetation as is practical.
- (16) Natural vegetation will be retained within five (5) feet of any stream except where the vegetation is removed to provide for stream retention ponds and drainage improvements or if necessary to provide for road or utility right-of-way.
- (17) A combination of storage and controlled release of storm water runoff is required for all **development** and construction.
- (18) The release rate of storm water from all **developments** shall not exceed the storm water runoff from the area in its natural state for all intensities and durations of rainfall.
- (19) All free-flowing storm drainage systems shall be designed to accommodate the runoff generated by a fifteen (15) year **design storm**.
- (20) Retention facilities and **drainage structure** shall, where possible, use natural topography and natural vegetation. All on-site facilities shall be properly maintained by the owner so that they do not become nuisances. Nuisance conditions shall include improper storage resulting in uncontrolled runoff and overflow, stagnant water with concomitant algae growth, insect breeding, and odors.
- (21) Adverse effect on wildlife, fish, and marine life shall be identified and plans shall address methods which will be used to limit and reduce the impact.
- (22) Roads shall be designed to create the minimum feasible amount of land coverage and the minimum feasible disturbance to the soils.
- (23) Road alignment should follow natural terrain and no unnecessary cuts or fills shall be allowed in order to create additional **lots** or building sites.

ARTICLE 13. SUBDIVISION REGULATIONS

- (24) One-way **streets** shall be permitted and encouraged where appropriate for the terrain and where **public safety** would not be jeopardized; the right-of-way for a one-way **street** shall be twenty-four (24) feet. A minimum of twelve (12) feet of the right-of-way must be paved with shoulders a minimum width of six (6) feet. This would exclude parallel parking bays. If single lanes with a median are used then the minimum right-of-way must be forty-four (44) feet. Each single lane must be paved a minimum width of twelve (12) feet. The median must be a minimum width of eight (8) feet and the shoulders must have a minimum width of six (6) feet. A utility **easement** of at least ten (10) feet in width for use in maintenance activity by vehicles and equipment of Sunset Beach must be dedicated and recorded.
- (25) Standard vertical curbs and gutters shall be installed along both sides of all paved roadways.
- (26) Adequate parking will be provided for all units.
- (27) Combinations of collective private driveways, cluster parking areas, and on-**street** parallel parking bays shall be used to optimize the objectives of minimum soil disturbance, minimum impervious cover, excellence of design, and aesthetic sensitivity.
- (28) Slopes greater than fifteen percent (15%) shall not be used for **development**.
- (29) Thirty-five percent (35%) of the total area of the tract shall be common **open space**. Common **open space** is land not covered by buildings, parking **structures**, or **accessory structures** and which is accessible and available to all occupants of **dwelling** units in the PRD. An area shall be deemed accessible where ownership is held in common and where it is connected to the units by pedestrian or vehicular **access**.
- (30) Fifty percent (50%) of the common **open space** must be designed for passive recreation, including but not limited to walking, jogging, hiking, **flood** control, **wetlands**, wildlife, and similar uses.
- (31) Adequate provisions for the collection and **disposal** of garbage and refuse shall be provided in such a manner that the **planned residential development** will be maintained in a clean and orderly appearance.

ARTICLE 13. SUBDIVISION REGULATIONS

- (32) Suitable plans for water service, **disposal** of sanitary sewage, and storm drainage shall be provided. All systems shall meet requirements of the **County** Health Department as well. Public water and sewer are required in the **planned residential developments**.
- (33) Walls dividing individual units shall be separated by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of construction and fire protection requirements, or by a party wall, or when not more than three (3) stories in height, may be separated by a single wall meeting the following requirements:
- (a) Such wall shall provide not less than two (2) hours fire resistance. Plumbing, piping, ducts, electrical, or other building services shall not be installed within or through the two (2)-hour wall.
 - (b) Such wall shall extend from the foundation to the underside of the roof sheathing.
 - (c) Each **dwelling** unit sharing such wall shall be designed and constructed to maintain its structural integrity independent of the unit on the opposite side of the wall.
- (B) Each **planned residential development** will be served water by a minimum of six (6) inch lines and the developer will provide fire hydrants a minimum of five hundred (500) feet from each unit as he/she installs these lines according to the Town's standards.

PART IV. DESIGN STANDARDS

SECTION 13.21 CONFORMANCE WITH PLAN

All proposed **subdivisions** shall be in conformity with a plan for the most advantageous **development** of the entire neighboring area and shall bear a sensible relationship to the existing or amended plans of the **Planning Board**.

SECTION 13.22 RELATIONS OF PROPOSED STREETS TO ADJOINING STREET SYSTEMS

The proposed **street** system shall extend existing and projected **streets** at not less than the required minimum width. Where in the opinion of the **Planning Board** it is desirable to provide for **street access** to adjoining property, proposed **streets** shall be extended by dedication to the boundary of such property.

ARTICLE 13. SUBDIVISION REGULATIONS

SECTION 13.23 STREET NAMES

Proposed **streets** which are obviously in alignment with others already existing and named, shall bear the names of existing **streets**. In no case shall the name of proposed **streets** duplicate or be phonetically similar to existing **street** names, irrespective of the addition of a prefix, suffix, or word such as **street**, avenue, boulevard, drive, place, or court. In no case shall the total number of letters including spaces exceed fifteen (15).

SECTION 13.24 STREET CONSTRUCTION

All **streets** shall be constructed to the specifications of the Town. See Chapter 98 of the Code of Ordinances.

SECTION 13.25 INTERSECTIONS

Street intersections shall be as nearly to right angles as possible, and no intersections shall be at an angle less than forty-five (45) degrees.

SECTION 13.26 WHEN LOCAL IMPROVEMENTS MAY BE INSTALLED

No local improvements or utilities, including water or sewer, shall be constructed until the preliminary plan and completed detailed plans for such improvements have been examined, analyzed, and approved by the **Planning Board** and any State or Federal Agencies.

APPENDIX A. DEFINITIONS

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APPENDIX A. DEFINITIONS

SECTION A.1 PURPOSE

For the purposes of this Ordinance, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

SECTION A.2 INTERPRETATION

- (A) As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- (B) Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- (C) Words used in the present tense include future tense.
- (D) The word person includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- (E) The words may and should are permissive.
- (F) The words shall and will are always mandatory and not merely directive.
- (G) The words used for shall include the meaning designed for.
- (H) The words used or occupied shall mean intended, designed, and arranged to be used or occupied.
- (I) The word lot shall include the words plot, parcel, site, and premises.
- (J) The word structure shall include the word building.
- (K) The word street includes the words alley, road, cul-de-sac, highway, or thoroughfare, whether designated as public or private.
- (L) The word includes shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (M) The word Council shall include Town Council of Sunset Beach, North Carolina.

APPENDIX A. DEFINITIONS

- (N) The word Administrator shall mean the UDO Administrator or his/her designee.
- (O) The words Board or Planning Board shall mean the Sunset Beach Planning Board.
- (P) The word Town shall mean the Town of Sunset Beach, a municipality of the State of North Carolina.
- (Q) The words map, zoning map, and Sunset Beach Zoning Map shall mean the Official Zoning Map for the Town of Sunset Beach, North Carolina.
- (R) The words Board of Adjustment shall mean the Sunset Beach Board of Adjustment.

SECTION A.3 DEFINITIONS

A

Abutting

Having property or district lines in common.

Access

A way of approaching and entering a property. Access also includes ingress, the right to enter and egress, the right to leave.

Accessory Building/Accessory Structure

A subordinate building or structure detached from the principal building, but located on the same lot or parcel as the principal building, the use of which is incidental and accessory to that of the principal building. Garages, carports and storage sheds are common urban accessory structures.

Accessory Use

A use customarily incidental and subordinate to the principal use of building and located on the same lot with the principal use of building.

Addition (to an existing building)

An extension or increase in the floor area or height of a building or structure.

Adjacent Property

- (1) Defined for residential districts as any adjoining lots sharing a common boundary regardless of the length of that boundary; or

APPENDIX A. DEFINITIONS

- (2) Intervening streets, roads, or alleys do not change the status of adjacent property with the following exceptions:
 - (a) Major thoroughfares designated as Routes 179 and 904; or
 - (b) Residential property adjoining business property.

Administrative decision

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this UDO. These are sometimes referred to as ministerial decisions or administrative determinations.

Adult Arcade

An establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines for viewing by five (5) or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, as defined hereinafter.

Adult Bookstore

An establishment that has a substantial portion (more than fifteen percent (15%) of total retail space) of its stock-in-trade and offer for rent or sale, for any consideration, any one (1) or more of the following:

- (1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that emphasize upon the depiction or description of specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Adult Business

Any business activity, club, or other establishment which permits its employees, members, patrons, or guests on its premises to exhibit any specified anatomical areas before any other person or persons.

Adult Motion Picture Theater

An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion (twenty-five percent (25%)) of the total presentation time is devoted to the showing of material

APPENDIX A. DEFINITIONS

characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult Theater

A theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical area or by specified sexual activities.

Air-Supported Structure

Any structure that derives its structural integrity from the use of internal pressurized air to inflate a pliable material (i.e. structural fabric) envelope, so that air is the main support of the structure, and where access is via airlocks.

Alley

A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

Alteration of a Watercourse

A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Apartment Dwelling Unit

A single-family housekeeping unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Apartment House

See Dwelling, Multi-family.

Appeal

A request for a review of the UDO Administrator's interpretation of any provision of this Ordinance.

Applicant

An owner or developer of a site who executes the Stormwater Permit Application pursuant to this Ordinance.

Area, Net

The total area of a residential subdivision, excluding street right-of-ways and other publicly dedicated improvements such as stormwater detention and retention facilities.

APPENDIX A. DEFINITIONS

Area of Special Flood Hazard

See "Special Flood Hazard Area (SFHA)"

Automobile Service Station or Gas Stations

Any building used for the dispensing, sale or offering for sale, at retail, automobile fuels along with accessories such as lubricants or tires, except that mechanical and electrical repairs and tire repairs shall only be performed indoors and incidental to the conduct of the service station. Activities such as tire retreading, major body work, major mechanical work or upholstery work shall not be permitted. No fuel pumps shall be within fifteen (15) feet of any property line or street right-of-way.

Awning

Any nonrigid material such as fabric or flexible plastic that is supported by or stretched over a frame that is attached to an exterior wall.

B

Base Flood

Flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE)

A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area," it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard," establishes the "Regulatory Flood Protection Elevation."

Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

Bedroom

In a dwelling, every room with a built-in closet shall be considered a bedroom, except bathrooms, kitchen, dining room, library/study, and great room or any combination of rooms, including the kitchen, dining room, and great room.

Best Management Practices (BMPs)

APPENDIX A. DEFINITIONS

Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the storm drain system and waters of the United States. Best Management Practices (BMPs) include but are not limited to: treatment facilities to remove pollutants from stormwater; operating and maintenance procedures; facility management practices to control runoff, spillage, or leaks of non-stormwater, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the County determines appropriate for the control of pollutants. Please refer to the Brunswick County's Stormwater Management Manual for further information and for specific BMP requirements.

Bona Fide Farm

A property that is located in the Town's extraterritorial jurisdiction that is used for bona fide farm purposes in accordance with G.S. 160D-903(a) and is exempt from zoning regulation to the same extent bona fide farming activities are exempt from county zoning pursuant to G.S. 160D-903~~Any tract of land containing at least one (1) acre which is used for activities relating to production, and activities incidental to production of crops, fruits, vegetables, ornamental and flowering plants, grasses and grains, forest products, dairy, livestock, fish and shellfish, poultry, and other agricultural products having a domestic or foreign market, and excludes commercial and industrial processing.~~

Breakaway Wall

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Broadcast Communication Tower

Any tower whose principal purpose requires a license to be issued by the Mass Media Bureau of the Federal Communications Commission and is not intended for point-to-point transmissions and their related ancillary and accessory licensed frequencies.

Buffer

A strip of land together with the landscaping and screening required thereon separating and partially or completely obstructing the view of two (2) adjacent land uses or properties from one another. Buffers are meant to minimize potential nuisances such as the transmission of noise, dust, odor, litter, and glare of lights; to reduce the visual impact of unsightly aspects of adjacent development; to provide for the separation of spaces; to reduce the amount of impervious surfaces; to reduce storm water runoff; to provide shade; and to establish a sense of privacy.

APPENDIX A. DEFINITIONS

Building

See "Building, Principal" and "Structure".

Building Footprint

- (1) The greatest exterior dimension of the structure, including porches, decks, stairways, eaves, gutters and similar fixtures, when extended to ground level.
- (2) Any subsequent alteration to the footprint of a structure may be made providing it does not encroach into any required setback.
- (3) In a residential district, temporary ramping to an existing structure needed for handicapped access may be excluded from the footprint with the approval of the Building Inspector.

Building, Principal

Any enclosed structure used for residence, business, industry, or other public or private purposes. For the purpose of this Ordinance, trailers and mobile homes shall not be considered as buildings.

Building Setback Lines

A line establishing the minimum allowable distance between the nearest portion of any building, including any uncovered porches, steps, eaves, gutters, as well as canopies, marquees, or awnings when measured perpendicularly to the property line.

 C

Camper, Transient

A portable dwelling for use during casual travel and camping.

Canopy

A structure, enclosure, or shelter constructed of fabric or pliable materials supported by any manner, except by air or the content it protects, and is open without sidewalls or drops on seventy-five percent (75%) or more of the perimeter.

Canopy Tree

Large - A tree attaining a height greater than thirty (30) feet with a mature spread of twenty (20) feet or more.

APPENDIX A. DEFINITIONS

Small - A tree attaining a height of less than thirty (30) feet with a mature spread of ten (10) feet or more.

Certificate of Occupancy

Official certification that a premises conforms to provisions of the zoning code and building code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use.

Certified Local Government (CLG) Programs

Approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Channel Bank

The location of the upper edge of the active channel above which the water spreads into the overbanks on either side of the channel or the elevation of the two-year frequency storm. Where the channel bank is not well defined, the channel bank shall be considered the edge of the waterline during a two-year frequency storm.

Chemical Storage Facility

A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Clean Water Act

The Federal Water Pollution Control Act (33 U.S.C. ' 1251 et seq.), and any subsequent amendments thereto.

Coastal A Zone (CAZ)

An area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

Coastal Area Management Act (CAMA)

Means North Carolina's Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) Division of Coastal Management (DCM).

APPENDIX A. DEFINITIONS

Coastal Barrier Resources System (CBRS)

Undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

Coastal High Hazard Area

A Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 12.02(B) of this Ordinance, as Zone VE.

Collocation

The placement of additional antennas or antenna arrays on an existing or approved telecommunication tower (or alternative structure), the sharing of an antenna or antenna array or otherwise sharing a common location by two (2) or more FCC licensed providers of personal wireless services.

Community Center

A building for a community's educational and recreational activities.

Congregate

Providing or being group services or facilities designed for elderly persons requiring supportive services and housing.

Congregate Care Facility

A licensed multi-unit facility which provides housing, part-time medical care, shared food preparation and dining areas, and recreational facilities, as well as significant social facilities to meet the needs of the elderly and handicapped. Congregate care facilities do not include nursing care institutions or similar institutions devoted primarily to the care of the chronically ill or incurable.

Construction Activity

Activities subject to NPDES Construction Permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

APPENDIX A. DEFINITIONS

Continuing Care Community

An area of land including one (1) or more buildings under unified management planned and developed as a unit to provide for the traditional residency and care of the elderly or handicapped in a full range of living and care arrangements which includes at least two (2) of the following: independent living and care, congregate care, and/or nursing care institutions.

Copy

The characters, letters, or illustrations displayed on a sign face.

County

Brunswick County, North Carolina.

Critical Root Zone

The critical root zone is defined as the ground area around a tree trunk with a radius (in feet) that is twice the diameter of the tree (in inches) measured at breast height.

D

Day Care Facilities

Any child care arrangement which provides day care on a regular basis for more than four (4) hours per day for more than five (5) children, wherever operated and whether or not operated for profit, except that the following are not included: public schools; nonpublic schools whether or not accredited by the State Department of Public Instruction, which regularly and exclusively provides a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; summer day camps; and bible schools normally conducted during vacation periods.

Design Flood

See "Regulatory Flood Protection Elevation."

Design Storm

The specific frequency and, if necessary, duration of the rainfall event to be used in design to meet the criteria established in the Storm Water Management Manual.

Determination

A written, final, and binding order, requirement, or determination regarding an administrative decision of the UDO Administrator. Such determinations shall be provided to interested parties in accordance with NCGS 160D-403(b).

APPENDIX A. DEFINITIONS

Development

Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil. This also involves any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development Activity

Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

Development Approval

An administrative or quasi-judicial approval made pursuant to this UDO that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, and variances. The term also includes all other regulatory approvals required by regulations adopted pursuant to this UDO, including plat approvals, permits issued, development agreements entered into, and building permits issued. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this UDO attach to and run with the land. Town-issued development approval permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced.

Development Regulation

A unified development ordinance, zoning regulation, subdivision regulation, floodplain or flood damage prevention regulation, stormwater control regulation, wireless telecommunication facility regulation, building code regulation, or any other regulation adopted pursuant to this UDO.

Digital Flood Insurance Rate Map (DFIRM)

The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Disposal

As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

APPENDIX A. DEFINITIONS

Drainage Structures

Shall include swales, channels, storm sewers, curb inlets, yard inlets, culverts, and other structures designed to convey stormwater.

Dune Walkover

An accessway constructed to CAMA standards and must be for public access to an ocean beach.

Duplex

See Dwelling, Two-Family.

Dwelling

A building or portion thereof designed, arranged or used for permanent living quarters for one (1) or more families. The term dwelling shall not be deemed to include a motel, hotel, tourist home or other such structures designed for transient residence.

Dwelling, Condominium

An individual ownership of a unit in a multi-unit structure (as an apartment building) or on land owned in common.

Dwelling, Multi-family

Three (3) or more attached units on a single parcel which may share means of egress and ingress and other facilities.

Dwelling, Single-family

A detached building consisting of one (1) dwelling unit, with the following characteristics:

- (1) One (1) water connection and one (1) power connection;
- (2) Served by one (1) septic tank, the capacity of which cannot exceed the generated waste capacity of a four (4) bedroom dwelling; and
- (3) One (1) cooking facility.

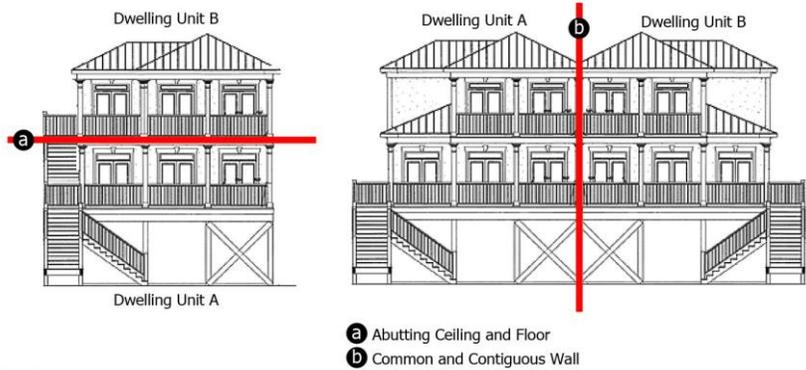
Dwelling, Triplex

A detached building, designed for three (3) single-family dwelling units, divided horizontally or vertically and designed for or occupied by three (3) single-family housekeeping units, contained entirely under one roof and having one (1) dividing partition common to each unit or having the ceiling structure of the lower units the floor structure of the unit above.

APPENDIX A. DEFINITIONS

Dwelling, Two-Family or Duplex

A detached building, designed for two (2) single-family dwelling units, divided horizontally or vertically and designed for or occupied by two (2) single-family housekeeping units, contained entirely under one (1) roof and having one (1) dividing partition common to each unit or having the ceiling structure of the lower unit the floor structure of the unit above.



E

Easement

Authorization by a property owner for the use of land by another for a specific purpose. No transfer of ownership is involved. Although land located within an easement is generally consumed into the property of an individual lot owner, the easement shall remain free of structures or any above ground level improvements in order to allow personnel from the appropriate agencies unobstructed access in order to maintain the easement for its specified purpose.

Electronic Gaming Operation

A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not value of such distribution is determined by electronic games played or by predetermined odds (as allowed by State law).

Elevated Building

A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment

The advance or infringement of uses, fill, excavation, buildings, permanent structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

APPENDIX A. DEFINITIONS

Entertainment and Amusement Type Business

Pool, billiard or similar tables; pinball machines; or mechanical or electronic amusement devices which are or may be operated on the payment of money, trade, token, or slug, whether directly or indirectly, and which operate or may be operated by retail patrons as games or contests of skill. A device must not contain any automatic payoff device for the return of money or trade; nor the provision for the return of money or trade to the player.

Erect

To assemble, construct, build, raise, place, install, affix, attach, create, paint, draw or in any other way bring into being or establish.

Evidentiary Hearing

A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this UDO.

Existing Building and Existing Structure

Any building and/or structure for which the "start of construction" commenced before November 18, 1972.

Existing Manufactured Home Park or Manufactured Home Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

Existing Trees

Includes large shade trees, ornamental trees, evergreens, and natural dune forest trees that are protected and retained during lot clearing and construction and thereby become an integral part of the final landscaping plan.

F

Family

One (1) or more persons related by blood, marriage, or adoption living together as a single housekeeping unit and having a recognized head of household. For the purpose of this chapter, such persons may include gratuitous guests, contributing roommates, and domestic servants employed on the same premises.

APPENDIX A. DEFINITIONS

Fence

Any constructed barrier erected along a property line or erected within any setback requirement.

Festoon

Adorn (a place) with ribbons, garlands, or other decorations.

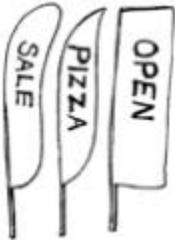
Festoon Lighting

Lighting by festoons of electric lamps wired to a flexible cable.

Feather Flag

A vertical portable sign that contains a harpoon-style pole or staff driven into the ground for support or supported by means of an individual stand. (See Example.)

Example

**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.

Floor Area, Gross

The total floor area enclosed within a building.

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance

The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM)

APPENDIX A. DEFINITIONS

An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (See also DFIRM.)

Flood Insurance Study (FIS)

An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area

See Floodplain.

Floodplain

Any land area susceptible to being inundated by water from any source.

Floodplain Administrator

The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit

Any type of permit that is required in conformance with the provisions of this Ordinance, prior to the commencement of any development activity.

Floodplain Management

The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations

The Flood Damage Prevention Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes Federal, State, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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Floodproofing

Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Flood-Resistant Material

Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway Encroachment Analysis

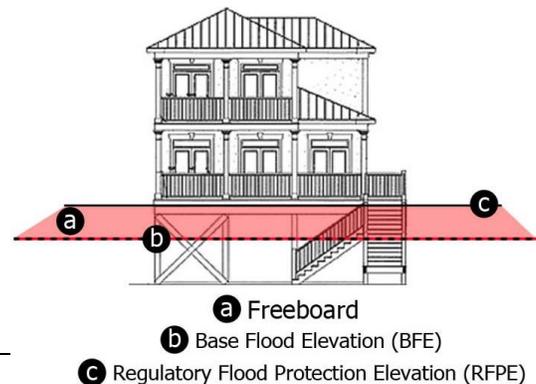
An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

Flood Zone

A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Freeboard

The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The



APPENDIX A. DEFINITIONS

Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation. @

Frontage, Lot

The length of that part of a zoned lot that fronts a public street.

Functionally Dependent Facility

A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

G

Garage, Private

A building used as an accessory to or part of the main building permitted in any residential district and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.

Golf Courses/Golf Club Property

That portion of the PRD property on which Golf Course(s)/Club(s) and related facilities are located, the boundary lines of which shall be shown on a plat or plats of the properties containing the PRD. The Golf Course(s)/Golf Club(s) property shall include: (1) property owned by the Golf Course/Golf Club Owner; and (2) the Golf Course Easements property (if applicable).

Government Utility

The use of land for utility purposes, whether or not owned, controlled, or operated by a state, federal, or local unit of government, whose services are performed for or commodities delivered to the public or any portion thereof. Government utility does not include airports or television, radio, or community television antenna system administration offices, or other types of administrative offices or maintenance yards.

Ground Level

The mean elevation at the front of the building or at the rear of the building on ocean front lots.

Greensward

An open space that will run parallel to the front property setback line abutting any street right-of-way.

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Guest House

Living quarters within a detached accessory building located on the premises with the main buildings for use by temporary guests or domestic help of the occupants of the premises; the quarters shall not contain kitchen facilities and shall not be rented or used as a separate dwelling.

H

Handicapped Person

A person with a physical or mental impairment which substantially limits one (1) or more of such person's life activities; a record of having such impairment; or being regarded as having such an impairment. This definition does not include current illegal use of or addiction to a controlled substance. This definition includes children, but does not include persons who are dangerous to others as defined by NCGS 122C-3.11 (b).

Hazardous Materials

Any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hazardous Waste Management Facility

As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Heavy Manufacturing

Uses that typically produce excessive noise, odor, smoke, dust, airborne debris, and other objectionable characteristics.

Height, Building/Structure

As applied to a building, means the vertical distance from finished ground level to the highest part of the building or any structure attached to the building excluding chimneys, flag poles, antennas, church spires, and necessary mechanical devices.

Heritage Tree

For the purposes of this Ordinance, heritage trees shall be defined as follows:

APPENDIX A. DEFINITIONS

- (1) An american holly with a trunk caliper measurement of 8" or greater measured at 4.5 feet above ground;
- (2) A flowering dogwood with a trunk caliper measurements of 4" or greater measured at 4.5 feet above ground;
- (3) A redbud with a trunk caliper measurement of 4" or greater measured at 4.5 feet above ground;
- (4) A live oak with a trunk caliper measurements of 4" or greater measured at 4.5 feet above ground;
- (5) Any tree species included in Appendix C with a trunk caliper measurement of 18" or greater measured at 4.5 feet above ground.

Highest Adjacent Grade (HAG)

The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic Structure

Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program;" or
- (4) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program."

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Home Occupation

Any occupation or profession carried on entirely within a dwelling by one (1) or more occupants thereof, providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that not more than twenty-five percent (25%) of the total floor area is used for such purposes, that there is no outside or window display, that no merchandise or commodity is sold on the premises, that no mechanical or electrical equipment is installed or used other than is

APPENDIX A. DEFINITIONS

normally used for domestic, professional, or hobby purposes, or for infrequent consultation or emergency treatment and providing that no person not a resident of the dwelling is employed in connection with the home occupation.

Hotel

Any building or establishment operated or intended as a place where sleeping accommodations are provided for pay for the use of transient or permanent guests or tenants. Dining rooms and club rooms, principally used for the accommodation of the house guests, may be operated in connection with any hotel if located within the hotel premises. Club rooms are subject to existing ordinances and such other rules and regulations as may hereafter be adopted.

Hot Tub

A structure intended for recreational bathing with the capacity for using aerated water, in which all controls, water-heating and water circulating equipment are in integral part of the structure or product (also called "Jacuzzi").

(Am. Ord. 2/1/16)

I

Illegal Discharge

Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, or other discharge of any substance other than stormwater into a stormwater conveyance system, the waters of the State, or upon the land such that the substance is likely to reach a stormwater conveyance system or waters of the State constitutes an illegal discharge, except as exempted in this Ordinance.

Illicit Connections

An illicit connection is defined as either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the County.

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Impervious Surface

Any surface which in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces may include, but not be limited to compacted earth (such as marl and coquina), gravel, concrete, asphalt, or other paving material, and all areas covered by the footprint of buildings or structures. The following are considered pervious surfaces: uncovered wooden slatted decks; the water area of a swimming pool; a surface of number 57 stone, as designated by ASTM International, laid at least four inches thick over a geotextile fabric (needle punched, non-woven, high survivability, with a puncture strength of 250 newtons); or a trail as defined in GS 143B-135.94B that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).

Industrial

A company engaged in production or services on a small scale. Products are not made from raw materials.

Industrial Activity

Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Intermittent Streams

A natural drainage way which shows up as a blue line on the USGS 7.5-minute quadrangle maps and has a contributing drainage area of three hundred (300) acres or less shall be considered an intermittent stream for the purposes of this Ordinance.

 J

Joint Access Driveways

The use of joint access points/driveways to serve adjacent parcels abutting thoroughfares.

 K

None

 L

Land Disturbing Activities

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The use of land by any person that results in a change in the natural cover or topography that may contribute to or alter the quantity and/or quality of stormwater runoff.

Landscaping

Includes trees, shrubbery, grass, ground covers, and privacy fencing which may be considered to buffer utility areas.

Large and Shade Trees

A large tree includes indigenous shade trees and palm trees that grow to twenty (20) feet or more at maturity.

Large Shrub

An upright plant growing five (5) to ten (10) feet in height at maturity.

Legislative Decision

The adoption, amendment, or repeal of a regulation under this UDO, which shall include any text or map amendment (rezoning). The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of NCGS.

Letter of Map Change (LOMC)

An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (1) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (2) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (3) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (4) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for

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such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck

Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Light Manufacturing

Uses that require warehousing, storage, and intensive industrial uses. Production of products made from raw materials, by hand or machinery.

Limit of Moderate Wave Action (LiMWA)

The boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

Livestock

Mules, cattle, swine, goats, sheep, poultry, and all other animals that typically are kept primarily for productive or useful purposes rather than as pets.

Loading Space, Off-street

Space logically and conveniently located for bulk pickups and deliveries. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot

A parcel of land occupied or intended for occupancy by a principal building together with its accessory buildings; including the open space required under this chapter. For the purpose of this chapter, the word *lot* shall be taken to mean any number of contiguous lots or portions thereof.

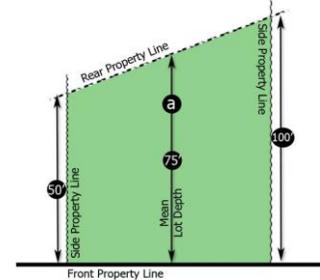
Lot Corner

APPENDIX A. DEFINITIONS

A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other.

Lot Depth

The depth of a lot is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the rear lot line.



Lot, Irregular Configuration

A lot which meets the required square footage but does not have a recognizable front yard, rear yard, or side yard, such as a triangular lot. The owner shall be required to specify same when requesting a building permit. The Zoning Officer and the Building Inspector will make an inspection and determination of which setback requirements will apply.

Lot Lines

The property lines established by survey defining a lot.

Lot, Ocean Front

For building setback and yard designation purposes, the front of the lot is that which faces the ocean; the back being that abutting Main Street.

Lot of Record

A lot which is a part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of the County or a lot described by meets and bounds, the description of which has been so recorded.

Lot Width

The width of a lot is the greater mean measured at right angles to its depth over as much of the lot depth as is needed to achieve the minimum required lot areas.

Lowest Adjacent Grade (LAG)

The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor

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The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

M

Maintenance, Telecommunication Tower

The tower must be maintained in accordance with the requirements stated within the EIA standard and as stipulated by the tower designer and manufacturer.

Major Collectors

Heavy use radial route that carries a large amount of beach traffic in the southern region of Brunswick County.

Major Development

A residential development consisting of a minimum of four hundred (400) contiguous acres that may include several subdivisions.

Manufactured Home

- (1) A residential dwelling unit that:
 - (a) is not constructed in accordance with the standards set forth in State Building Code;
 - (b) is composed of one (1) or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the lot on its own chassis; and
 - (c) Exceeds forty (40) feet in length and eight (8) feet in width.
- (2) A manufactured home may also be referred to as a Mobile Home.
- (3) A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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Market Value

The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal: replacement cost depreciated for age of building and quality of construction

Marquee

A permanent structure other than roof attached to, supported by, and projecting from a building and providing protection from natural elements.

Massage

Any manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

Massage Business

Any establishment or business wherein massage is practiced, including establishments commonly known as massage studios or massage parlors. Excluded from this definition are legitimate massage therapists, bodywork therapists, or contact manipulation therapists, working under the direct supervision of a licensed physician, or who in the regular course of their respective businesses, have been licensed or certified by any governmental subdivision in the State, or licensed or certified by a recognized association or organization on file with the Secretary of State, the State Board of Chiropractic Examiners, N.C. Board of Medical Examiners, N.C. Board of Occupational Therapy, N.C. Board of Physical Therapy Examiners or Board of Podiatry Examiners or have been certified or licensed by a national organization and similarly registered.

Materials Storage Yard

Any land or area used, in whole or in part, for the storage or sale of either waste papers, rags, scrap metal, and other disposed materials; building, electrical and plumbing materials; and including storage of motor vehicles and dismantling of those vehicles; or machinery or parts thereof.

Mean Sea Level

For purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

Medium Shrub

A shrub growing two (2) to five (5) feet in height at maturity.

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Model Home/Unit

A dwelling unit temporarily used for display purposes as an example of the dwelling units available or to be available for sale in a particular subdivision or other residential development.

Modular Homes

A manufactured building designed to be used as a one (1) or multi-family dwelling unit which has been constructed and labeled indicating compliance with the North Carolina Residential Code, current Edition.

Monopole

A tower supported by a single pole structure whose principal function is to support an antenna.

Motel

One (1) or more buildings containing sleeping units with individual access to the outside in which accommodations are provided and offered to guests for compensation.

Motorized Dwelling

A motor vehicle equipped as living quarters.

N

National Pollutant Discharge Elimination System (NPDES)

Stormwater Discharge Permits

General, group, and individual stormwater discharge permits that regulate facilities defined in Federal NPDES regulations pursuant to the Clean Water Act.

Natural Drainage Way

An incised channel with a defined channel bed and banks that are part of the natural topography. Construction channels such as drainage ditches shall not be considered a natural drainage way unless the constructed channel was a natural drainage way that has been relocated, widened, or otherwise improved.

New Construction

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Structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

Newsrack

Any individual self-service or coin-operated box, container, storage unit, or other dispenser, installed, used or maintained for the display, distribution or sale of any written or printed material, including but not limited to, newspapers, new periodicals, magazines, books, pictures, photographs, advertising circulars, and records (hereinafter collectively referred to as "newsrack material"). A telephone number of the person or persons responsible for the newsrack must appear on the box.

Nonbroadcast Communication Tower

Any tower that is not a broadcast communication tower.

Nonconforming Building

Any building or structure which does not conform to the dimensional requirements of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments which may be incorporated into this chapter.

Nonconforming Lot

A lot existing at the effective date of this chapter or any amendment to it (and not created for the purpose of evading the restrictions of this chapter) that cannot meet the minimum area or lot width or depth requirements of the district in which the lot is located.

Nonconforming Use

The use of a building or land which does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments which may be incorporated into this chapter.

Non-Encroachment Area

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

Non-Stormwater Discharge

Any discharge to the storm drain system that is not composed entirely of stormwater.

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Open Space

An area (land and/or water) generally lacking in manmade structures, the preservation of which in its present use would: (1) conserve and enhance natural or scenic resources, or (2) protect streams or water supplies, or (3) promote conservation of soils, wetlands, beaches or tidal marshes, or (4) enhance the value to the public of abutting or neighboring parks, forest, wildlife preserves, or sanctuaries, or (5) enhance recreational opportunities.

Otherwise Protected area (OPA)

See "Coastal Barrier Resources System (CBRS)".

Outparcel Establishments

Any establishment located on the premises of a shopping center that is not physically attached to the main shopping center structure.

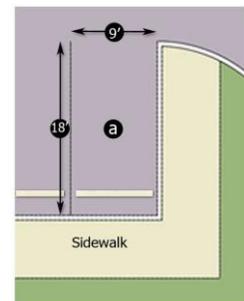
P

Parking Lot

An area or plot of land used for the temporary parking of vehicles.

Parking Space

The storage space for one (1) automobile, plus the necessary access space. It shall always be located outside the dedicated street right-of-way. Each PARKING SPACE shall have the minimum dimensions of nine (9) by eighteen (18) feet.



Perennial Stream

Perennial streams are streams that have essentially continuous flows and are shown on the United States Geological Survey 1:24,000 (7.5 min.) scale topographic maps. Streams that have a contributing drainage area of more than three hundred (300) acres shall be considered perennial streams for the purposes of this Ordinance.

Planned Residential Development (PRD)

The total development of one (1) tract of land under one (1) central control of ownership.

Planning Board

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The public agency in a community usually empowered to prepare a comprehensive plan and to evaluate proposed changes in land use, either by public or private developers, for conformance with the plan.

Plat

A map showing the location, boundaries, and ownership of individual properties.

Plat, Final

A plat prepared in accordance with the requirements of this chapter and North Carolina General Statutes section 47-30, in a form suitable for recording, with necessary affidavits, dedications, and with complete bearings and dimensions of all lines defining lots, streets, public and private areas, and other dimensions of land required by this chapter.

Plat, Preliminary

A plat prepared in accordance with the requirements of this chapter, drawn to scale, which delineates the proposed subdivision in sufficient detail including but not limited to, street right-of-ways and lot layout. The preliminary plat precedes the final plat preparation.

Pollutant

Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; untreated commercial car wash water and industrial discharges, contaminated fountain drains and cooling waters; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

Pollution

The human-made or human-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

Post-FIRM

Construction or other development for which the "start of construction" occurred on or after November 18, 1972, the effective date of the initial Flood Insurance Rate Map.

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Pre-FIRM

Construction or other development for which the "start of construction" occurred before November 18, 1972, the effective date of the initial Flood Insurance Rate Map.

Premises

Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Primary Dune

The first dune located landward of the ocean beaches having an elevation equal to the mean flood level for the area plus six (6) feet. The primary dune extends landward to the lowest elevation in the depression behind the same mound of sand which is commonly referred to as the dune trough.

Primary Frontal Dune

A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Principally Above Ground

At least fifty-one percent (51%) of the actual cash value of the structure is above ground.

Private

As used in docks and piers, is intended to mean not for commercial gain or public use. It applies to residential multi-family, time-share condo, or single use.

Private and/or Public Piers and Docks

A pier or dock used by the public or private entity for the purposes of crabbing, fishing, and observation. These docks and piers may not be used for the docking of boats.

Private Community Center

To include but not be limited to beach clubs, cabana clubs, property owners association facilities, and similar type uses. A building or facility owned or operated by an incorporated, unincorporated, chartered association, or an individual or individuals nominated by such entities for the purpose of engaging in social, civic, educational, recreational, cultural, or similar activities; but not for profit or to render a service that is customarily carried on as a business for the benefit of its members.

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Private Pier and Boat Slips

A pier and a maximum of two (2) boat slips that are owned by the person or entity of the single-family residential water front lot with riparian rights along a canal, bay, creek, or the ICWW to which the pier is attached, and the private pier is used only by the lot owner, his/her family, and guest.

Public Safety and/or Nuisance

Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Q

Quasi-judicial decision

A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, and appeals of administrative determinations.

R

Recreational Vehicle (RV)

A vehicle, which is:

- (1) built on a single chassis;
- (2) four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

For the purpose of this ordinance, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

Reference Level

APPENDIX A. DEFINITIONS

The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones AE. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

Register of Deeds

The words "register of deeds" shall mean the Register of Deeds for Brunswick County, North Carolina.

Regulated Tree

The subsurface roots, crown, and trunk of:

- (1) Any self-supporting woody perennial plant such as a large shade or pine tree, which usually has one (1) main stem or trunk and has a measured caliper as follows:
 - (a) A hardwood tree: eight (8) inches.
 - (b) A pine tree: twelve (12) inches.
- (2) Any small flowering tree, such as dogwood, with a measured caliper of at least four (4) inches.

Regulations

The word "regulations" shall mean the regulations of the Town of Sunset Beach Unified Development Ordinance, and shall include the word "Ordinance."

Regulatory Flood Protection Elevation

The "Base Flood Elevation" plus the "Freeboard." In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one (1) foot of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

Remedy a Violation

To bring the structure or other development into compliance with this Ordinance and State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Replat

APPENDIX A. DEFINITIONS

A final plat drawn for the purpose of lot consolidations and rearrangements which conforms to the definition of a "subdivision" in this section. The UDO Administrator shall review and give approval to all replats prior to recordation and the transfer of the lots. All replats must conform to the final plat standards found in Section 13.02 of this Ordinance and all of the following:

- (1) If any individuals owning lots within the subdivision do not wish to participate in the replatting of the subdivision, the subdivider may only propose the replatting of those remaining lots in his/her ownership.
- (2) No public street, right-of-way or easement, or existing lot access not in the ownership of the subdivider shall be changed, altered or adversely affected by the replatting.
- (3) If one or all of the above provisions cannot be complied with by the proposed replatting, the proposal will be reclassified as a subdivision by the UDO Administrator and must be processed in accordance with the procedures established herein for that classification.

Riparian Buffer

An area of trees, shrubs, or other vegetation that is adjacent to a natural drainage way. Riparian buffers reduce the impact of upland sources by trapping, filtering, and converting nutrients, sediments, and other chemicals, and maintain the integrity of the natural drainage way. For the purposes of this Ordinance, surface water shall be present if the feature is approximately shown on the most recent version of the 1:24,000 (7.5 min.) quadrangle topographic maps prepared by the United States Geological Survey (UGSG) or on the latest version of the Brunswick County Soil Map as prepared by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS).

Riverine

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

S

Salvage Yard

Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Sand Dunes

Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Setback

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The required distance between every structure and the lot lines of the lot on which it is located.

Sexually Oriented Business

Any business activity, club, or other establishment, within which the exhibition, showing, rental or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to adult arcades, adult bookstores, adult motion picture theaters, adult theaters, and massage businesses, as defined by this Ordinance.

Shear Wall

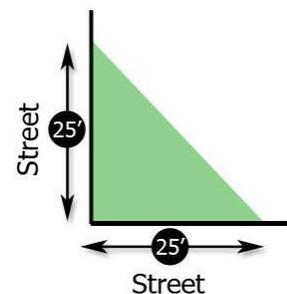
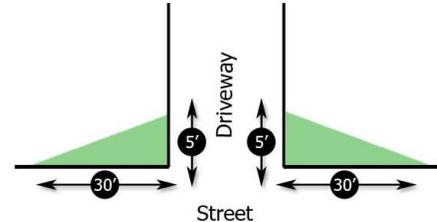
Walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

Shopping Center

A commercial development consisting of retail and public commercial uses which consists of five (5) or more establishments planned as an integrated development.

Sight Visibility Triangle

- (1) The land adjoining a street intersection or egress to a street from off-street parking areas that is kept clear of obstructions to protect the visibility and safety of motorists and pedestrians.
- (2) At all points of egress from off-street parking areas to a road, unobstructed visibility shall be maintained at an elevation of between three (3) and seven (7) feet of the center line pavement level, within the two (2) areas formed by two (2) right angle triangles, on the sides of the driveway. Each triangle shall have a base measuring five (5) feet along the edge of the driveway and a height measuring thirty (30) feet along the edge of the road right-of-way.
- (3) At the corners of road intersections, unobstructed visibility shall be maintained at an elevation between three (3) and seven (7) feet of the center line pavement level within an area required by the regulations adopted by the Department of Transportation of North Carolina in Subdivision Roads: Minimum Construction Standards, May 1, 1983, and any subsequent amendments thereto.



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Sign

Any words, lettering, figures, numerals, emblems, devices, trademarks or trade names, or combination thereof, by which anything is made known as the designation of an individual firm, corporation, profession, business, commodity or product, and which is designed to attract attention or convey a message.

Sign, Abandoned

A permitted sign which was erected on property in conjunction with a particular use which use has been discontinued for a period of thirty (30) days or more or a permitted temporary sign for which the permit has expired.

Sign, Awning

A sign placed directly on the surface of an awning.

Sign, Banner

A sign that is mounted on or attached to a nonrigid surface such as cloth, fabric, or paper.

Sign, Business

A sign which directs attention to a business, profession, commodity, service, or entertainment sold or offered upon the premises where the sign is located or to which it is attached.

Sign, Canopy

A sign attached to a canopy.

Sign, Changeable Copy

A sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or surface of the sign.

Sign, Dilapidated

Any sign which is structurally unsound, has defective parts, or is in need of painting or maintenance.

Sign, Directional

A sign that provides directional assistance for the convenience of the public such as location of exits, entrances, and parking lots for on-site directional signs and also the location of public services, major attractions, and privately-owned outdoor recreational areas that are nationally or regionally known and of outstanding interest to the traveling public for off-site directional signs.

APPENDIX A. DEFINITIONS

Sign, Directory

A sign which displays the names and/or addresses of the establishments or uses of a building or group of buildings.

Sign, Free-standing

The general term for any sign which is supported from the ground and not attached to a building.

Sign, Illegal

Any sign erected or maintained in violation of a preceding ordinance or erected, altered, removed, or replaced in violation of this Ordinance.

Sign, Illuminated

A sign illuminated in any manner by an artificial light source, whether internally or externally lit.

Sign, Inflatable Advertising Billboards

An inflatable device designed for advertising an activity, business, product, or service whether attached directly to the floating device or flying overhead, i.e., banner.

Sign, Inflatable Floating Advertising Billboard

Advertising displayed on billboards that float, travel atop a vessel, or are towed on any body of water within the Town jurisdiction for the purpose of advertising an activity, business, product, or service whether attached directly to the device or flying overhead, i.e., banner.

Sign, Legal Nonconforming

A sign that met all legal requirements when constructed, but that is not in compliance with this Ordinance. An illegal sign is not a legal nonconforming sign.

Sign, Marquee

A sign attached to and made part of a marquee or any other similar projection from a building.

Sign, Mobile

A sign attached to, mounted, pasted, painted, or drawn on any vehicle, whether motorized or drawn, that is placed, parked, or maintained at one particular location for the express purpose and intent of promotion or conveying an advertising message.

Sign, Monument

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A freestanding sign with a base affixed to the ground which measures at least two-thirds (2/3) of the horizontal length of the sign.

Sign, Multi-Face

A sign that has three (3) or more sides.

Sign, Nonconforming

See Legal Nonconforming Sign.

Sign, Off-Premises or Off-Premises Advertising

Any sign that is used to attract attention to an object, person, product, institution, organization, business, service, event, or location that is not located on the premises upon which the sign is located. This definition does not include governmental, traffic, directional, or regulatory signs or notices of the Federal, State, County, or Town government or their public agencies. (Excepted also from this definition are certain other private directional signs described elsewhere in this Ordinance.)

Sign, On-Premises

Any sign that is used to attract attention to an object, person, product, institution, organization, business, service, event, or location that is located on the premises upon which the sign is located.

Sign, Pole

A freestanding sign which is supported from the ground by a pole or poles or which has a base less than two-thirds (2/3) the horizontal length of the sign.

Sign, Portable

Any sign that is not permanently affixed to a building, structure or the ground or designed to be permanently affixed to a building, structure, or the ground.

Sign, Projecting

A sign which is supported by an exterior wall of a building and which is displayed perpendicular to the face of the building.

Sign, Sidewalk or Sandwich

A movable sign not secured or attached to the ground or any building or structure.

Sign, Snipe



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An off-premises sign that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.

Sign, Swinging

A sign installed on an arm, mast, or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.

Sign, Temporary

A sign that is displayed only for a specified period of time not to exceed six (6) months.

Sign, Wall

A sign painted on or attached to a wall of a building and parallel to the wall.

Sign, Window/Display

Any sign and/or display which is painted on, applied to, or projected upon or within the exterior or interior of a building glass area, including doors.

Significant Stands of Trees

Any stands of trees containing five (5) or more hardwoods or fifteen (15) or more softwoods.

Site Plan

A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features, both natural and man-made and, depending on requirements, the location of proposed utility lines.

Site Specific Vesting Plan

A site-specific vesting plan consists of a plan submitted to the Town in which the applicant requests vesting pursuant to this UDO and in accordance with the required procedure for approval, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property.

Small Shrub

A shrub growing to less than two (2) feet in height at maturity.

Small to Medium or Ornamental Tree

A small to medium indigenous tree growing to a minimum of fifteen (15) feet at maturity. ***Solid***

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Waste Disposal Facility

As defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

Solid Waste Disposal Site

As defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA)

The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Section 12.02(B) of this Ordinance.

Special Sign District

Areas of the Town requiring special sign approval through the Planning Board due to unique circumstances.

Special Use Permit

A permit issued by the Board of Adjustment authorizing the development of a special use of a parcel, site, or lot for the purpose of this Ordinance.

Specified Anatomical Areas

Less than completely and opaquely covered human genitals; pubic regions, buttocks, and female breasts below a point immediately above the top of the aureole.

Specified Sexual Activities

- (1) Human genitals in a state of stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, sodomy; or
- (3) Fondling of other erotic genitals, pubic regions, buttocks, or female breasts.

Start of Construction

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the

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property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Storage Units, Self-Service

A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.

Storm Drain System

Publicly- and privately-owned facilities operated by the County by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the County and are not part of a publicly-owned treatment works as defined in 40 CFR Section 122.2.

Stormwater

Any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.

Stormwater Administrator

The person designated by the County Manager of Brunswick County to have authority to review and approve Stormwater Permits and stormwater management plans. The Stormwater Administrator shall also be responsible for inspecting development and making sure the provisions of this Ordinance are being followed.

Stormwater Facilities

Shall include devices designed specifically to detain or retain stormwater for water quantity or water quality control. These devices shall not include those drainage structures that provide incidental water quantity or water quality control. These devices include but are not limited to wet ponds, dry ponds, bioretention areas, filter strips, or infiltration trenches.

Stormwater Management Manual

The manual of design, performance, and review criteria adopted by Brunswick County Board of Commissioners for the administration of the Stormwater Program.

Street

The word "street" includes the words road, cul-de-sac, highway, and thoroughfare.

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- (1) Private Street: A right-of-way for vehicular traffic which is constructed to acceptable public street standards and dedicated to a select portion of the public. This responsibility for the maintenance of a private street shall be borne by an established owners' association or other owner through recorded legal agreements.
- (2) Public Street: A right-of-way for vehicular traffic dedicated and accepted for maintenance for public use.
- (3) Collector Street: A street which collects traffic from local streets and carries it to the arterial system. Collectors may supplement the arterial system by facilitating some through traffic volumes and may also serve abutting property.
- (4) Local Street: A street that serves primarily to provide direct access to abutting property.
- (5) Frontage road: A local street auxiliary to and located on the side of an arterial to provide:
 - (a) Service to the abutting property and adjacent areas; and
 - (b) Control of access.
- (6) Cul-de-sac: A local street or section of local street closed at one end with a turnaround area provided.
- (7) Alley: A local street which affords only a secondary means of access to abutting property and not intended for general traffic circulation.
- (8) Private access easement: A private easement providing access to a maximum of four (4) residential units and constructed to meet the minimum standards of design established in Chapter 98.

Structural Alterations

Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, except for repair or replacement.

Structure

A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground. Structures include buildings, wells, screened enclosures, fences, advertising signs, billboards, poster panels, swimming pools, manufactured houses, modular houses, and underground shelters. For purposes of the flood plain management regulations, a structure means, a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground, and does not include any of the following:

- (1) In-ground pools.
- (2) An electric generation, distribution, or transmission facility.

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- (3) A gas pipeline or gas transmission or distribution facility, including a compressor station or related facility.
- (4) A water treatment or distribution facility, including a pump station.
- (5) A wastewater collection or treatment facility, including a lift station.

Structure, Accessory

Anything constructed or erected, the use of which is customarily incidental and subordinate to that of the principal building on the same lot. For the purpose of this Ordinance, septic tanks and drainage fields, trailers and mobile homes shall not be considered structures.

Subdivision

All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale, or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this Ordinance. However, any document or plat to be recorded pursuant to such exclusions shall have the notation of "no approval required" and the signature of the UDO Administrator before filing with the office of the Register of Deeds:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this chapter and the applicable zoning regulations.
- (2) The division of land into parcels greater than ten (10) acres where no street right-of-ways dedication is involved
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets.
- (4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance and the applicable zoning regulations.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

Subdivision, Major

The division of a tract of land into six (6) or more lots.

Subdivision, Minor

A subdivision of land, as defined herein, out of a tract in single ownership which:

- (1) Does not involve the dedication of right-of-ways or construction of new streets.

APPENDIX A. DEFINITIONS

- (2) Does not involve construction alterations to existing streets except for alterations required solely as a condition of the installation of a driveway pursuant to Chapter 98.23 (A)(4).
- (3) Does not require the extension of any public utilities.
- (4) Does not create any public improvements, dedication of parks, open space or recreation land for public use, provided, however, if the only public improvement required is the extension of sidewalks along existing streets, the subdivision shall be deemed to be a minor subdivision.
- (5) Does not land-lock or otherwise impair convenient ingress and egress to or from the rear or side of the subject tract or any adjacent property.
- (6) Does not fall within the corridors of any planned or proposed street as shown upon an adopted thoroughfare plan of the Town.
- (7) Does not violate any other local, State or Federally adopted law, ordinance, regulation, plan or policy.
- (8) Does not require approval of or permit from any other regulatory agency at any level of government.
- (9) Each lot in the minor subdivision, as defined herein, shall abut an open, publicly dedicated and accepted street for a distance as prescribed by the Zoning and Subdivision Ordinances and shall meet or exceed the minimum area and dimensional requirements as specified therein. Each lot or parcel subdivided and intended to be an addition to an existing lot or lots which front a publicly dedicated and accepted street may be allowed under this definition. Such additions to an approved existing lot as described above may be allowed to be added to the side or rear of the existing lot.

Subdivision, Minor Expedited

The division of one existing parcel of land under single ownership that is not exempt per G.S. 160D-802(a); (1) where no part of the tract or parcel to be divided has been divided in the 10 years prior to the proposed division; (2) the entire area of the tract or parcel to be divided is greater than 5 acres; (3) after division, no more than three lots result from the division and all resultant lots comply with all lot dimension size requirements of the applicable zoning district and the use of the lots is in conformity with the applicable zoning district; and (4) a permanent means of ingress and egress is recorded for each.

Substantial Damage

Damage of any origin sustained by a structure during any one (1) year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Also means flood-related

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damage sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before damage occurred.

Substantial Improvement

Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one (1) year period for which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 12 of this ordinance.

Swimming Pools

Any aboveground or inground pool suitable for swimming.

I

Technical Bulletin/Technical Fact Sheet

A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

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Telecommunication Tower

A structure designed to support antennas used to provide commercial mobile radio services or other personal wireless service (such as cellular telephone communications, personal communication service (PCS), paging, specialized mobile radio (SMR), and marine radio), excluding satellite dish antennas, amateur, ham radio antennas, or public safety service antennas.

Temperature Controlled

Having the temperature regulated by a built-in heating and/or cooling system.

Temporary Uses

Temporary uses shall be limited to a use or uses of land, buildings, or structures not intended to be of a permanent duration.

Tent

A collapsible shelter used for camping outdoors or as a temporary building.

Through Lot

A lot other than a corner lot with frontage on more than one (1) street.

Total Retail Space

Any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.

Tower

Any structure whose principal function is to support an antenna.

Town Council

The governing body of the Town of Sunset Beach.

Townhouse

A single-family dwelling unit constructed in a series or group of attached units with property lines separating the units.

Trailer

A nonautomotive equipment designed to be hauled by road to serve wherever parked as a temporary dwelling or place of business.

Transient

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Passing through with only a short and brief stay.

U

UDO Administrator

The official charged with the enforcement of this UDO.

Unattended Telephone Communication Facility

A small windowless structure housing telephone equipment that does not require regular employee attendance for operation.

V

Variance

A relaxation of the terms of this Ordinance where the variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of a structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of fine presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Vegetative Buffer

An area that has a dense ground cover of herbaceous or woody species, which provides for diffusion and infiltration of runoff and filtering of pollutants.

Vested Rights

Vested right shall be based upon the following criteria:

- (1) Having an outstanding valid building permit in compliance with ~~NCGS 153A-344.1 or~~ NCGS ~~160A-385.1~~ 160D-108; 108.1, or
- (2) Having an approved site specific ~~or phased development~~ vesting plan or multi phased development plan in compliance with NCGS ~~153A-344.1 or NCGS 160A-385.1~~ 160D-108; 108.1.

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Projects that require a State permit, such as landfills, NPDES wastewater discharges, land application or residuals, and road construction activities, shall be considered to have vested rights if a State permit was issued prior to the effective date of the adoption of the Stormwater Ordinance.

Video Gaming Machines

As defined in NCGS 14-306.1.

Violation

The failure of a structure or other development to be fully compliant with this Ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

W

Watercourse

A lake, pond, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water Dependent Structures

Those structures which require the access or proximity to, or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not considered water-dependent structures.

Waters of the United States

Surface watercourses and water bodies as defined in 40 CFR ' 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

Water Surface Elevation (WSE)

The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wetland

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Those areas regulated under Section 404 of the Clean Water Act as identified under guidelines employed by the United States Army Corps of Engineers in evaluating permit applications under 33 U.S.C. 1344 and applicable Federal regulations.

Wild Animal

Any animal that:

- (1) Typically is found in a non-domesticated state and that, because of its size or vicious propensity, because it is poisonous or for any other substantial reason poses a potential danger to persons, other animals, or property; or
- (2) Is classified as a wild animal by the State Wildlife Resources Commission.

X

None

Y

Yard

An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

Yard, Front Ⓐ

A yard across the full width of the lot, extending from the front line of the footprint of the principal building to the lot line abutting the street right-of-way upon which the lot fronts. (Exception, see Lot, Ocean Front.)

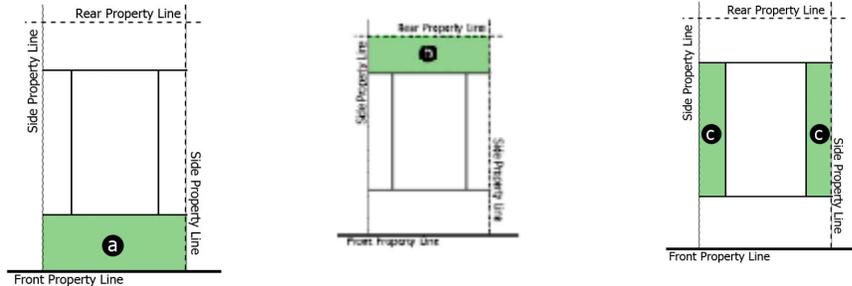
Yard, Rear Ⓑ

A yard extending across the full width of the lot between the rear line of the footprint of the principal building and the rear lot line.

Yard, Side Ⓒ

- (1) An open unoccupied space on the same lot with a principal building situated between the side line of the footprint of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.
- (2) If no front yard is required, the front boundary of the side yard shall be the front line of the lot; and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot.

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Z

Zero Lot Line

A concept commonly used in planned developments where individual commercial buildings or dwellings, such as townhouses (row houses) and patio homes, are to be sold along with the ground underneath and, perhaps, a small yard or patio area. The commercial or residential units are grouped in buildings with two (2) or more units per building, usually including common walls. With zero lot line, the minimum requirements for lot area and yards are not met and construction takes place right up to the lot line.

Zoning

- (1) A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and ~~conditional~~ special uses are established, as are regulations governing lot size, building bulk, placement, and other development standards.
- (2) Requirements vary from district to district, but they must be uniform within districts.
- (3) The zoning ordinance consists of two (2) parts: a text and a map.