

TEXT AMENDMENT STAFF REPORT



Hearing Date: NA

Case File #: TA-17-06

General Description: Amend the Town of Sunset Beach UDO to establish Article 14 Minimum Housing/Unsafe Structures

Town Council Initiated Planning Board Initiated Staff Initiated Citizen Initiated

Applicant(s): Town of Sunset Beach, Planning & Inspections Department

APPLICATION OVERVIEW:

Several ordinances were not codified with the Unified Development Ordinance (UDO) during the update and rewrite in 2012. These ordinances dealt with building regulations, some of which have already been put back in place and others are in the process of being reviewed. This application involves specifically the regulations relating to minimum housing/unsafe structures standards, regulations, and enforcement. This is also an opportunity to establish the roles of the building inspectors into the UDO.

PROPOSAL

Staff is proposing to include minimum housing regulations and unsafe structure regulations into the UDO. Staff is recommending these regulations fall into a new article in the UDO as they comprise their own specialized review and enforcement procedures. This new article would be Article 14 Minimum Housing/Unsafe Structures. It would be comprised of several parts.

Part One: The Building Inspector. This part will cover the duties, responsibilities and authority of the building inspectors.

Part Two: Minimum Housing. Part Two will establish the minimum standards for housing to determine suitability for habitation and to ensure safety and general welfare principles are being met.

Part Three: Unsafe Structures. This part will establish minimum standards for other structures that are not residential in nature or that do not necessarily fall under minimum housing.

STAFF COMMENTARY

In the past it was discovered that certain elements of the Town's previous ordinances were left out of the UDO during the update and rewrite in 2012. Some of these ordinances have been reintegrated into the UDO recently such as Fill and Grade and Alteration of Sand Dunes. Still, there are other elements that need to be included.

These various elements need to be included into the UDO in order to require and enforce them. Several of the regulations help ensure compliance with other elements of the UDO while others work towards achieving the Town's vision and goals.

There is a limit to the authority for of what may be regulated. These ordinances are for life safety and structural integrity. This amendment is not to deal with cosmetic maintenance or improvements.

PROPOSED TEXT AMENDMENT**Article 14 Minimum Housing/Unsafe Building****Part I: Building Inspector****Section 14.01 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) 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;
- (B) 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;
- (C) 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;
- (D) To administer oaths and affirmations, examine witnesses and receive evidence;
- (E) To enter upon premises for the purpose of making examinations and inspections; provided, the entries shall be made in accordance with Section 14.02 and state law, and shall be made in the manner as to cause the least possible inconvenience to the persons in possession;

- (F) 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
- (G) To perform other duties as may be herein prescribed or ordered by the Town Council.

Section 14.02 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.
- (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.

Part II: Minimum Housing

Section 14.03 FINDINGS AND PURPOSE.

- (A) Pursuant to G.S. § 160A-441, it is hereby found and declared that there exists in the town dwellings which: are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities and other conditions rendering dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.
- (B) In order to protect the health, safety and welfare of the residents of the town, as authorized by G.S. § 160A-441 through 160A-450, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160A-444.

Section 14.04 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

- (A) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (B) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof, which he or she occupies and controls.

- (C) Rubbish and garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.
- (D) Supplied plumbing fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- (E) Care of facilities, equipment and structure. No occupant shall willfully destroy, deface or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

Section 14.05 MINIMUM STANDARDS FOR DWELLINGS AND DWELLING UNITS - COMPLIANCE REQUIRED.

- (A) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.
- (B) No person shall occupy as owner/occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.

Section 14.06 STRUCTURAL CONDITIONS.

The following shall be the minimum standards for structural condition of dwellings or dwelling units.

- (A) Walls, partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
- (B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
- (C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.
- (D) Ingress/Egress Components
 - (1) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
 - (2) Protective railings. Protective railings shall be required on any unenclosed structure over 30 inches (762 mm) above the ground level or on any steps containing four risers or more.
- (E) Adequate facilities for egress in case of fire or panic shall be provided.
- (F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall

be maintained in such a manner as to enable the occupants to maintain reasonable privacy between various spaces.

- (G) The roofs, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.
- (H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in the condition or location as to constitute a fire hazard.
- (I) There shall be no use of the ground for floors or wood floors on the ground.

Section 14.07 BASIC EQUIPMENT AND FACILITIES.

The following shall be the minimum standards for basic equipment and facilities in dwellings and dwelling units.

(A) Plumbing system.

- (1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.
- (2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
- (3) All plumbing fixtures shall meet the standards of the Plumbing Code and shall be maintained in a state of good repair and in good working order.
- (4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants thereof. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.
- (5) Water heating facilities. Every dwelling unit shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120°F (49°C). Such water heating facilities shall be capable of meeting the requirements of 302.4 when the dwelling or dwelling unit heating facilities required under the provisions of this code are not in operation. Apartment houses may use a centralized water heating facility capable of heating an adequate amount of water as required by the Standard Plumbing Code to not less than 120°F (49°C).

(B) Heating system. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following.

- (1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in

every dwelling unit to which it is connected with a minimum temperature of 70°F measured at a point three feet above the floor during ordinary winter conditions.

- (2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents, or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70°F. measured three feet above the floor during ordinary winter conditions.
- (3) Gas heaters listed for unvented use shall be permitted provided the total input rating of the heaters is less than 30 BTU per hour per cu. ft. (314 W/m³) of room content. Such heaters shall be prohibited in bedrooms.
- (4) The use of any liquid fueled unvented heating appliance shall be permitted in one and two family residences only, providing such appliance is tested and listed by an approved laboratory according to requirements of UL 647 (1984) and providing the fuel is stored in containers meeting ASTM ES-8 for kerosene containers.

(C) Electrical system.

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each habitable room shall contain at least three floor or wall-type electric convenience receptacles.
- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the State Electrical Code.
- (4) Smoke detector systems. Every dwelling unit shall be provided with an approved listed smoke detector, installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of UL 217 (1989), Single and Multiple Station Smoke Detectors.
- (5) Electric lights and outlets. Where there is electric service available to the building structure, every habitable room or space shall contain at least two separate and remote receptacle outlets. Bedrooms shall have, in addition, at least one wall switch controlled lighting outlet. In kitchens, two separate and remote receptacle outlets shall be provided (receptacles rendered inaccessible by appliances fastened in place or by appliances occupying dedicated space shall not be considered as these required outlets) and a wall or ceiling lighting outlet controlled by a wall switch shall be provided. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one ceiling-mounted or wall-mounted lighting outlet. In

bathrooms, the lighting outlet shall be controlled by a wall switch. In addition to the light outlet in every bathroom and laundry room, there shall be provided at least one receptacle outlet. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

Section 14.08 VENTILATION.

The following shall be the minimum standards for ventilation in dwellings and dwelling units.

- (A) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops for every habitable room shall be 10% of the floor area of that room. Whenever walls or other portions of structures face a window or any room and those light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of that skylight shall equal at least 15% of the total floor area of the room.
- (1) Windows to be glazed. Every window sash shall be fully supplied with glass window panes or an approved substitute which are not open cracks or holes.
- (2) Windows to be openable. Every window required for light and ventilation for habitable rooms shall be capable of being easily opened and secured in position by window hardware.
- (B) Habitable rooms. Every habitable room shall have at least one window or skylight which can easily be opened, or the other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.
- (C) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

Section 14.09 SPACE, USE AND LOCATION.

The following shall be the minimum standards for space, use and the location applicable to dwellings and dwelling units.

- (A) Room sizes.
- (1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code.
- (2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three

occupants and at least 75 square feet of additional habitable floor area for each additional occupant.

- (3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age.
- (B) Ceiling height. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.
- (C) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.
- (D) Cellar. No cellar shall be used for living purposes.
- (E) Basements. No basement shall be used for living purposes unless:
- (1) The floor and walls are substantially watertight;
 - (2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms; and
 - (3) The required minimum window area of every habitable room is entirely above the grade adjoining that window area, except where the window or windows face a stairwell, window well or access way.

Section 14.10 SAFE AND SANITARY MAINTENANCE.

The following shall be the minimum standards for safe and sanitary maintenance applicable to dwellings and dwelling units.

- (A) Exterior foundations, walls and roofs. Every foundation wall, exterior wall and exterior roof shall be substantially watertight and rodent-proof, shall be kept in sound condition and good repair, shall be capable of affording privacy and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- (B) Interior floors, walls and ceilings. Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

- (C) Windows and doors. Every window, exterior door, basement or cellar door and hatchway shall be substantially watertight, watertight and rodent-proof and shall be kept in sound working condition and good repair.
- (D) Stairs, porches and appurtenances. Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.
- (E) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit that floor to be easily kept in a clean and sanitary condition.
- (F) Supplied facilities. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
- (G) Drainage. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.
- (H) Noxious weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.
- (I) Egress.
 - (1) Every dwelling unit over, and at least 35 square feet of floor area for each occupant under 12 years of age, shall be provided with adequate means of egress as required by the State Residential Building Code.
 - (2) Every dwelling unit shall have safe, unobstructed means of egress with minimum ceiling height of 7 feet (2134 mm) leading to a safe and open space at ground level. Stairs shall have a minimum head room of 6 feet 8 inches (2032 mm).
- (J) Kitchen facilities. Every dwelling unit shall contain a kitchen equipped with the following minimum facilities:
 - (1) Food preparation surfaces impervious to water and free of defects which could trap food or liquid.
 - (2) Shelving, cabinets or drawers for the storage of food and cooking and eating utensils, all of which shall be maintained in good repair.
 - (3) Freestanding or permanently installed cook stove. Portable electric cooking equipment shall not fulfill this requirement. Portable cooking equipment employing flame shall be prohibited.
 - (4) Mechanical refrigeration equipment for the storage of perishable foodstuffs.
- (K) Protective treatment. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All

siding shall be weather resistant and water tight. All masonry joints shall be sufficiently tuck pointed to insure water and air tightness.

Section 14.11 CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.

The following shall be the minimum standards for control of insects, rodents and infestations in dwellings and dwelling units.

- (A) Screens. In every dwelling unit, for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.
- (B) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or other approved devices as will effectively prevent their entrance.
- (C) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination whenever his or her dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.
- (D) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by this code and other town ordinances, and the owner, operator or agent in control of that dwelling or dwelling unit shall be responsible for the removal of rubbish.
- (E) Garbage storage and disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an approved outside garbage can as required by this code or other town ordinances.

Section 14.12 ENFORCEMENT PROCEDURE.

- (A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the officer by a public authority or by at least five residents of the town or extraterritorial jurisdiction charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the officer, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis of such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the officer at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint; that the owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or

otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the officer. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard.

(B) Procedure after hearing.

- (1) After the holding of a hearing under this division, the officer shall state in writing his or her determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.
- (2) If the officer determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made.
- (3) If the officer determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter or else to vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) Failure to comply with order remedies.

- (1) Failure to comply with order—In personam remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the officer to repair, alter or improve, or to vacate and close the same within the time specified therein, the officer may submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the officer.
- (2) In rem remedy. After the failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the officer within the time specified therein if injunctive relief has not been sought or has not been granted as provided in the preceding section, the officer shall submit to the Town Council an ordinance ordering the officer to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the inspector, and pending removal or demolition, to place a placard on such dwelling.

(D) Appeals.

- (1) Appeals. An appeal from any decision or order of the officer may be taken by any person aggrieved thereby. Any appeal from the officer shall be taken within ten days from the rendering of the decision or service of the order and shall be taken by filing with the officer and

with the Town Council a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal under this division, the officer shall forthwith transmit to the Town Council all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the officer refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When an appeal is from a decision of the officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Town Council unless the officer certifies to the Council, after the notice of appeal is filed with him or her, that, by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of this requirement would cause imminent peril to life or property; in which case, the requirement shall not be suspended except by a restraining order. Such a restraining order may be granted for due cause shown upon not less than one day's written notice to the officer, by the Town Council, or by a court of record upon petition made pursuant to division (E) below of this section.

- (2) Hearing. The Town Council shall fix a reasonable time for the hearing of all appeals under this chapter, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Town Council may reverse or affirm, wholly or partly, or may modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter; and, to that end, it shall have all the powers of the officer, but the concurring vote of four-fifths of the members of the Town Council shall be necessary to reverse or modify any decision or order of the officer. The Town Council shall have the power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of this chapter to adapt the application of the chapter to the necessities of the case to the end that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done.
- (3) Certiorari. Every decision of the Town Council concerning an appeal under this chapter shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Town Council but not otherwise.

- (E) Petition to superior court by order. Any person aggrieved by an order issued by the officer or a decision rendered by the Town Council shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the officer pending a final disposition of the cause.

Section 14.13 SERVICE OF COMPLAINTS AND ORDERS - PERSONALLY OR BY MAIL.

- (A) Complaints and orders issued by the officer under this chapter shall be served upon persons either personally or by registered or certified mail.
- (B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the officer in the exercise of reasonable diligence, and the officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provision of this chapter. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

Section 14.15 IN REM ACTION BY INSPECTOR; PLACARDING.

- (A) Authorized. After failure of an owner of a dwelling or dwelling unit to comply with an order of the officer issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so, as provided by Section 14.12 (C), the Inspector shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council, and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a misdemeanor.
- (B) Recording and indexing of ordinance. Each ordinance adopted under division (A) above shall be recorded in the office of the Columbus County Register of Deeds, and shall be indexed in the name of the property owner in the grantor index.

Section 14.16 COSTS A LIEN ON PREMISES.

The cost of any repairs, alterations or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the officer shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have priority and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10.

Section 14.17 ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. § 14-4, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

Section 14.18 OTHER PROVISIONS.

- (A) In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.
- (B) Any ordinance enacted by the County Commissioners relative to minimum housing standards shall not be suspended by this chapter, and any county ordinance shall be applicable within the corporate limits.

Section 14.19 VIOLATIONS.

- (A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve it, or to vacate, close and remove or demolish it, upon order of the Inspector duly

made and served as herein provided, within the time specified in that order. Each day that any failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense.

- (B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section 14.12, to occupy or permit the occupancy thereof after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing. Each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

Section 14.20 PENALTY.

- (A) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. § 14-4.
- (B) In addition to the penalty established by division (A) above, and the remedies provided by other provisions of this chapter, this chapter may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

Part III: Unsafe Buildings

Section 14.21 INSPECTION; NOTICE TO OWNER TO CORRECT.

When the Inspector finds any defects in a building, or finds that the building has not been constructed in accordance with the applicable state and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his or her duty to notify the owner or occupant of the building of its defects, hazardous conditions or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions or violations of law in the property he or she owns. (G.S. § 160A-425)

Section 14.22 CONDEMNATION OF ESPECIALLY DANGEROUS BUILDINGS.

- (A) Every building which shall appear to the Inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress or other causes, shall be held to be unsafe, and the Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building. (G.S. § 160A-426)
- (B) If any person shall remove any notice that has been affixed to any building or structure by the Inspector that states the dangerous character of the building or structure, he or she shall be guilty of a misdemeanor. (G.S. § 160A-427)

Section 14.23 FAILURE OF OWNER TO TAKE CORRECTIVE ACTION.

- (A) If the owner of a building or structure that has been condemned as unsafe pursuant to Section 14.22(A) shall fail to take prompt corrective action, the Inspector shall give him or her written notice by certified or registered mail to his or her last known address or by personal service:

- (1) That the building or structure is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health or other property;
 - (2) That a hearing will be held before the Inspector at a designated place and time, not later than ten 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
 - (3) That following the hearing, the Inspector may issue the order to repair, close, vacate or demolish the building or structure as appears appropriate.
- (B) If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing, and a notice of the hearing is published in a newspaper having general circulation in the town at least once, not later than one week prior to the hearing. (G.S. § 160A-428)
- (C) If, upon a hearing held pursuant to the notice prescribed in divisions (A) and (B) above, the Inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health or other property, he or she shall make an order in writing, directed to the owner of the building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating or demolishing the building or structure or taking other necessary steps, within a period, not less than 60 days, that the Inspector may prescribe. However, where the Inspector finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in the lesser period as may be feasible. (G.S. § 160A-429)

Section 14.24 APPEAL BY OWNER.

Any owner who has received an order under Section 14.23 (C) may appeal from the order to the Town Council by giving notice of appeal in writing to the Inspector and to the Town Clerk within ten days following issuance of the order. In the absence of an appeal, the order of the Inspector shall be final. The Town Council shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order. (G.S. § 160A-430)

Section 14.25 ENFORCEMENT PROCEDURES AGAINST OWNER.

If the owner of a building or structure fails to comply with an order issued pursuant to Section 14.23 (C) from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. (G.S. § 160A-431)

PLANNING BOARD SUMMARY

Action:

- (A) X The Planning Board hereby recommends approval of the proposed amendment to the Unified Development Ordinance and finds that it is (i) consistent with the Town’s comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan), Policy 14 (A) stating that **“Sunset Beach desires as much as practicable that all development be designed and placed so as to be compatible with its existing coastal town and residential character,”** and finds that it is in the public interest because of the following reasons to maintain and protect the natural environment and promote orderly development of the limited landmass and to protect the health, safety and welfare of the citizens of Sunset Beach.
- (B) The Planning Board hereby recommends denial of the proposed amendment to the Unified Development Ordinance and finds that (i) it is not addressed in the Town’s comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) and/or (ii) it is not in the public interests for the following reasons: _____.

(For 5 Against 0 Abstained)

Commentary:

At their July 20, 2017 regularly scheduled meeting, the Planning Board, after advertising that an action would be taken, voted unanimously to recommend approval of the text amendment, citing consistency with the 2010 CAMA Land Use Plan.

TOWN COUNCIL SUMMARY

Action:

- (A) The Town Council hereby accepts the recommendation of the Planning Board regarding the proposed amendment to the Unified Development Ordinance and has set a public hearing for the following date _____.
- (B) The Town Council hereby declines to accept the recommendation of the Planning Board regarding the proposed amendment to the Unified Development Ordinance and is sending the proposal back to the Planning Board for further review for the following reasons: _____.

Commentary: