

TEXT AMENDMENT STAFF REPORT



Case File #: TA-17-05

Planning Board Action Date: June 15, 2017

Town Council Public Hearing Date: August 7, 2017

General Description: Amend Article 1, Article 2 and Article 7 to include information related to Building Codes, Regulations, and Standards

Town Council Initiated Planning Board Initiated Staff Initiated Citizen Initiated

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

Updated: 5/30/17; 6/16/17; 8/24/17

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 and while we still ask for several of these elements, they cannot be required without being established in ordinance form.

PROPOSAL

Staff is proposing to include missing and forgotten elements of previous ordinances into the UDO. These elements involve ordinances more related to specific building standards and regulations.

First, the UDO should include a statement adopting the state building code and requiring building permits. Article 1 Purpose would be amended to accommodate these elements.

Second, Article 2 General Regulations would be amended to include provisions for Construction Debris, Surveys, and Addressing.

Finally, Article 7 Supplemental Regulations would be amended to include Pile-type construction regulations and stormwater solution regulations.

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.

Rather than handle each item separately, Staff is presenting them as a unified text amendment. This is easier to present as a unified amendment as much of the subject falls under the same scope.

UPDATE May 30, 2017: Staff during internal conversations felt that more detail should be put into the proposed Section 2.22 Surveys. This detail involves impervious surface percentages and elevations. Both of these items need to be check and approved prior to issuance of a certificate of occupancy and therefore Staff felt having it included in the ordinance would be more beneficial than verbally requesting the information.

UPDATE June 16, 2017: On June 15, 2017, the Planning Board, after properly advertising, took action on this item. Staff explained the amendments individually and covered the additions to the previous draft. After discussion between the Board and Staff, the changes were accepted. The Board moved to recommend acceptance of the text amendment application to the Town Council.

UPDATE August 24, 2017: On August 7, 2017, the Town Council held a public hearing regarding this proposal. There was some discussion, some centered around clarity of Section 2.21, wherein some council members felt that the language in (A) was too wordy to be clear. This was the original language, unaltered, though some suggestions were made. Other concern involved addressing on if it was necessary and on requiring nonconforming houses to comply. The Council decided to table the item until September 5, 2017 to give Staff time to make adjustments based on their comments.

Staff met with a few council members on August 9, 2017 to go over some of these concerns. With the prevailing idea that if the Fire Code addresses addressing, then maybe the language should match. Further, the 60 days for conformity needs to be placed back in, and finally clearing up the language for 2.21 is a must. To that end, Staff is presenting these changes below in **BOLD RED** while leaving what was originally proposed in BLACK and description of the proposed change is in **BOLD BLUE**.

This new proposed language has been incorporated into the draft ordinance for Council's consideration in anticipation of possible adoption.

PROPOSED TEXT AMENDMENT

ARTICLE 1 SECTION 1.02 PURPOSE; AUTHORITY: Amended to include the following in sequential order:

(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.

ARTICLE 1 SECTION 1.12 ENFORCEMENT AND PENALTIES: Amend to include the following in sequential order:

(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.

**Reorder list items (B) through (I) to (C) to (J)

ARTICLE 2 GENERAL REGULATIONS: Amend to include the following:

SECTION 2.21 DEBRIS FROM BUILDING CONSTRUCTION

(A) No 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 shall allow building debris, trash, or refuse from any building being constructed, altered, or restored on any such lot to be removed either by wind, water, or persons from the lot or any other area, without removing the building debris, trash or refuse from such areas, specifically road streets, canals, beach, and other public areas adjoining private lots.

[Proposed Change – The language below replaces the language above. This language was recommended by a council member to provide clarity on the intent of the original language.]

(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.

ARTICLE 2 GENERAL REGULATIONS: Amend to include the following:

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 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.
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ARTICLE 2 GENERAL REGULATIONS: Amend to include the following:

SECTION 2.23 STREET ADDRESS DISPLAY

- (A) Street address numbers must be clearly displayed so that the location can be identified easily from the road.
- (B) The official address number must be displayed on the front of the building or at the entrance to a building which is most clearly visible from the street or road during both day and night.
- (C) If a building is more than 75 feet from any road, the address number shall be displayed at the end of the driveway or easement nearest the road which provides access to the building.
- (D) Numerals indicating the address number shall be at least three inches in height and shall be posted and maintained so as to be legible from the road.
- (E) Numerals must be of contrasting color to the background.

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- (F) Every property owner of improved property shall purchase and display in a conspicuous place on said property the number assigned.
- (G) No development permit of any type shall be issued until an official house number has been assigned for a lot. The record plat of any subdivision must show the address for each lot created or recorded.
- (H) No certificate of compliance will be issued until street address numbers are property displayed.
- (I) Owners or occupants of buildings already constructed which do not comply with this ordinance will be required to comply the next time any development permit is applied for.
- (J) It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this ordinance, except for repair or replacement of such numbers.

[Proposed Change – The following would replace the previous proposed language above. (A) matches the language taken directly from the 2012 Fire Code. This is because it was felt that if this language was to be in here, then it should match the language from the approving authority from the State regulations. (B) was taken from the Town’s original language and amended to include the ordinance’s current enforcement actions under 1.12.]

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 for 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 with 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.**

ARTICLE 7 SUPPLEMENTAL REGULATIONS: Amend to include the following:

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.

ARTICLE 7 SUPPLEMENTAL REGULATIONS: Amend to include the following:

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 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.

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.

- (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 3 Against 0 Abstained)

Commentary:

At their June 15, 2017 regularly scheduled meeting, the Planning Board, after advertising that an action would be taken, voted unanimously - of the members present - to recommend approval of the text amendment, citing consistency with the 2010 CAMA Land Use Plan.

TOWN COUNCIL SUMMARY

Action:

- (A) X 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 August7, 2017.

- (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:

The Town Council at their rescheduled meeting of June 26, 2017 moved unanimously to accept the Planning Boards recommendation and hold a public hearing at the Council meeting of August 7, 2017 at 7:00 PM, or as soon thereafter.

TOWN COUNCIL SUMMARY

Action:

- (C) The Town Council hereby adopts 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.

- (D) The Town Council hereby denies 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 _____ Against _____ Abstained _____)

Commentary:

On August 7, 2017, the Town Council held their public hearing on this proposal. They then discussed the item and held off making a decision until Staff made some revisions requested.