

**APPENDIX D**  
**Amendments, Property Rezoning and Annexations**

(The amendment section of Appendix D includes highlighting in red type for additions and strike-through for deletions)

**UDO Amendments Adopted 06/02/14**

- 1. Article 2, Section 2.09 Temporary Storage Containers (B) (4) – 3<sup>rd</sup> Sentence amended to add “written” as follows:

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.



- 2. Article 6, Section 6.04 Table of Permitted/Special Uses – Miniature Golf Courses section is amended as follows:

- Remove SS designation from MB2 and BB1
- Change MB1 and MUD SS designation to S



- 3. Article 6, Section 6.06 Zoning District Development Standards, (H) BB-1 Beach Business District, (B) Residential Uses, (2) Multi-Family, (g) is removed:

~~(g) For multi-family developments, accessory structures used for required parking may be located within the 25 foot setback, provided that landscaping or landscaped earthen berms screen the structure from the right of way and the accessory structure is located at least 5 feet from the front property line.~~



- 4. Article 7, Section 7.14 Swimming Pools, (C) – 4<sup>th</sup> sentence is removed:

~~A fence erected along the property line or within any setback area shall be a fence which shall not exceed seventy-two (72) inches in height.~~



- 5. Article 9, Section 9.03 Building Design Standards, (C) Multi-Family Residential Buildings (Four or more units), (1) is amended to add “cement board” as follows:

Exterior materials shall be durable and residential in character. Suggested materials include wood, clapboard siding, wood shingles, brick, stone, stucco, vinyl, **cement board**, or similar materials. Suggested pitched roof materials include asphalt shingles, standing seam metal, slate, or similar materials.

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6. Article 10, Section 10.01 Landscape and Buffer Requirements (B) Exemptions (1) is amended to add “including duplexes” as follows:

Individual *single-family* detached residential *lots* including duplexes.

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7. Insert Article 10, Section 10.05 Individual Single Family Residential Landscape of Lots less than one acre. (Formerly Ordinance 151.097) as follows:

Section 10.05 Individual Single Family Residential Landscape of Lots less than one acre.

- A. Purpose – The purpose of this section is to establish residential landscaping standards that will promote the following goals:
1. To enhance the value of residential properties and neighborhoods within the jurisdiction of the town by implementing standards to protect, regulate, and maintain the appearance of residential properties;
  2. To preserve and enhance the natural resources of the town in order to provide aesthetic and other public benefits, including:
    - a. Pollution abatement;
    - b. Storm water erosion and run-off control;
    - c. Energy conservation;
    - d. Minimization of flood hazards; and
    - e. Continued maintenance of ecology systems.
- B. Application
1. This section and all its divisions shall apply within the entire area covered by the town’s zoning authority including the areas known as the mainland, beach and extraterritorial jurisdiction. The term residential structures includes all forms of structures that are built as residences, including single-family houses, townhouses, multi-family condominiums, manufactured homes, cooperative residences and apartment buildings.
  2. This section applies to newly built structures as specified below: all sections apply to the landscaping and maintenance of the landscaping requirements on all newly built residential structures and existing structures that undergo renovations or repairs that exceed 50 percent of tax value on which permitting is applied for after the date this section is enacted.
- C. Process and requirements for submitting request for approval of landscaping plans for residential structures.
1. Approval of the landscaping plan must be secured prior to the issuance of a certificate of occupancy.
  2. Submission of the landscaping plan by the developer to the Planning Board an illustration on an approved site plan that specifies that the minimum standards

established by way of this section have been met. Submission shall include agreement in writing by the developer and the property owner that:

- a. The landscaping plan shall be installed prior to the issuance of a certificate of occupancy for the subject property; or (b) shall be secured and installed within 90 days after the date the certificate of occupancy is issued. In cases where circumstances outside of the control of the developer or property owner prevent the installation of landscaping within the statutory 90 days (such as a major natural disaster), the Planning Board may approve an extension up to 180 additional days.
  - 3. The homeowner understands and agrees to perpetual maintenance of landscaping that meets the minimum requirements of this section, including timely maintenance of components of the landscaping on which neglect may result in health and human safety issues as specified herein.
- D. Issues to be considering when establishing a landscaping plan.
- 1. Existing natural vegetation should be retained and preserved whenever possible.
  - 2. Installation of vegetation indigenous to the immediate natural coastal ecosystem is preferred to promote proper plant life development and maturation.
  - 3. Plantings and/or privacy fencing should result in a screening of utility areas and from adjacent yards.
  - 4. Ground cover is mandatory on all portions of exposed ground or earth not occupied by other approved landscape material.
  - 5. Existing vegetation that is preserved on the lot during the construction period may be included as part of the minimum requirements.
  - 6. Plan shall include at least one front yard planting bed.
  - 7. Any component or any portion of a private septic system or other private sewage treatment system that is above grade shall be screened with landscaping components and approved as part of the overall landscaping plan.
  - 8. Parts of this UDO may be altered at the discretion of the Planning Board on the recommendation of the Building Inspector’s office to resolve issues emanating from unusual site conditions or configuration.
  - 9. A list of trees and shrubs indigenous to this area is available at the Town Hall.
- E. Minimum landscaping requirements
- 1. Sufficient existing and installed landscaping materials shall be selected and illustrated on the landscaping plan as to incorporate the issues listed in division (D) above and result in a minimum material point value of 36 points based on the following:

MATERIAL TYPE	MAINLAND POINT VALUE	ISLAND POINT VALUE
Existing Trees	10	10
New Large Tree	6	6
New Small to Medium or Ornamental Tree	4	4
New Large Shrub	3	3
New Medium Shrub	2	2

New Small Shrub	1	1
Sod	3	8
Irrigation System	3	8

Example: If a 50-foot by 100-foot lot is required to provide a 30-foot buffer, the lot’s usable area is reduced by 30 percent; therefore, the required minimum point value would be 25.

(36 point requirement x 70 percent of usable lot area)

100'	
Total 5000' sq. ft.	Usable 1500 sq. ft.
70% usable	30%
50'	30 sq. ft.

2. Although there is no material point value for ground covers other than sod (such as natural ground cover, pine straw and other typical ground cover material) or for privacy fencing as may be used to screen air conditioning units or heat pumps, the items will be considered as acceptable for resolving items of issue as listed in division (D) above.
3. No landscaping using impervious material such as solid plastic and vinyl will be permitted.

F. Coastal Area Management Act (CAMA) exemptions

1. Area of environmental concern – Any lot or portion thereof that has been designated as a CAMA buffer or area of environmental concern (AEC) shall be exempt from the landscaping requirements in deferment to the CAMA regulations that apply.
2. Frontal Dunes – Frontal dunes shall be exempt from the landscaping requirements, as set forth in this section. However, owners of properties with frontal dunes shall plant approved vegetation on at least 25 percent of the frontal dune area. Approved vegetation includes, but is not limited to, American Beach Grass (Fall/Winter planting), Sea Oats (Spring/Summer planting), Seashore Elder (Spring planting), Bitter Panicum (Spring/Summer planting) and Spartina Patens (Spring planting).
3. Point reductions on exempt lots – The required minimum point value shall be reduced by the corresponding percentage of the lot that is exempt from this section.



8. Article 10, Section 10.01, (E) Planting Areas along Boundaries of Right of Ways (2) is amended by adding “in accordance with Article 2, Section 2.08 Sight Visibility Triangle of the Town of Sunset Beach Unified Development Ordinance (UDO)”. as follows:

Adequate sight angles as required by North Carolina Department of Transportation roadway standards shall be maintained in accordance with Article 2, Section 2.08 Sight Visibility Triangle of the Town of Sunset Beach Unified Development Ordinance (UDO).



9. Appendix A Definitions is amended by deleting the Yard Debris definition and amending the Transient definition as follows:

- Transient - Passing through with only a short and brief stay.
- ~~Yard Debris~~
  1. ~~Tree trimmings, grass clippings, leaves, shrub trimmings, and the like that are normally collected when caring for a yard.~~
  2. ~~Leaves and grass clippings must be in paper bags and tied. Limbs may not be longer than four (4) feet and must be bundled together with rope and may not weigh more than fifty (50) pounds.~~
  3. ~~Yard debris must be placed next to the road on the property on the scheduled day of pickup.~~



10. Article 6, Section 6.04 Table of Permitted/Special Uses is amended as follows:

- Add MR2A to the Zoning Districts table that was omitted in error during the UDO conversion



11. Article 6, Section 6.06 Zoning District Development Standards is amended as follows:

- Add the text for MR-2A as (B) (1) that was omitted in error during the UDO conversion as follows:

**B -1 MR-2A Mainland Residential District**

The purpose of the MR-2A mainland residential district, are the same as those specified for the MR-2 district.

- A. Permitted Uses – Any use permitted in the MR-2, mainland residential district, as specified shall be permitted.
- B. Dimensional Requirements – Within the MR-2A, residential district, the following dimensional requirements shall be complied with:
  - a. The minimum required front yard shall contain a depth of not less than 25 feet from the property line. However, as to corner lots, this requirement shall apply to the portion of the front yard facing the narrow side of the lot, and the yard fronting on the wider side of the lot adjacent

- to the street shall have a depth of not less than 12 feet measured from the property line to the building.
- b. With regard to any lot abutting any state highway, the minimum required setback from the property line adjacent to the highway will be 50 feet.
  - c. All other dimensional requirements, as set forth in the MR-2, residential district, are hereby incorporated in MR-2A district's dimensional requirements as if fully set out herein to which reference is made.
  - d. Where through lots occur, the required front yard setback shall be provided on both streets.
- C. Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.

The following list provides the location of additional standards which apply to the development of uses permitted within this district:

Building Design Guidelines	Article 9, Part I
Off-Street Parking Requirements	Article 9, Part II (nonresidential uses)
Lighting Ordinance	Article 9, Part III
Landscape and Buffering Requirements	Article 10
Sign Regulations	Article 11
Flood Damage Prevention Ordinance	Article 12, Part I
Stormwater Management Ordinance	Article 12, Part II
Driveway Access and Connectivity	N/A
Fences and Walls Requirements	Section 7.09
Sight Visibility Triangle Requirements	Section 2.08



12. Appendix B, Section B.38 Signs (1), the third sentence is amended to add (See Section B.11 Signs) as follows:

The size of these signs shall be as determined under the Mixed Use District Sign Regulations (See Section B.11 Signs) and approved by the Village at Sunset Beach Architectural Review Board.



13. Article 3, Section 3.08 Operations; Rules; Meetings; Records, the 3<sup>rd</sup> sentence is amended by deleting shall and adding may as follows:

The Planning Board shall **may** adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings, and recommendations, which record shall be a public record.



14. Article 12, Section 12.06 Title, Purpose and General Provisions (G) (2) is amended by adding Brunswick County in the second sentence before Stormwater Management Manual as follows:

The application shall be filed with the County on a form supplied by the County and shall be accompanied with the information identified in the **Brunswick County** Stormwater Management Manual.



15. The following statement will be added at the bottom of the Table of Contents page for each Article explaining why some words are expressed in the text in a **Bold** print:

**Words expressed in the text in **Bold** print have an accompanying definition in Appendix A.**



16. Article 6, Section 6.03 (L) AF-1 Agricultural-Forestry District is amended to delete the present wording of “The principal use of land is for agricultural or horticultural and forestry production and harvest.” and adding the follows:

**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.**



17. Article 6, Section 6.06 Zoning Districts Development Standards, (A) MR1 Mainland Residential District J is amended by deleting Accessory Structures and adding the following:

**No accessory structure shall be erected in any front yard, required side yard, within 15 feet of any street line or within 5 feet of any rear yard lot line not a street line. On reverse corner lots, no accessory building or accessory structure shall extend beyond the front yard line of the lot to its rear.**



18. Article 6, Section 6.06 Zoning Districts Development Standards, (B) MR2 Mainland Residential District J is amended by deleting Accessory Structures and adding the following:

No accessory structure shall be erected in any front yard, required side yard, within 15 feet of any street line or within 5 feet of any rear yard lot line not a street line. On reverse corner lots, no accessory building or accessory structure shall extend beyond the front yard line of the lot to its rear.



19. Article 6, Section 6.06 Zoning Districts Development Standards, (C) MR3 Mainland Multi-Family Residential District G is amended by deleting Accessory Structures and adding the following:

No accessory structure shall be erected in any front yard, required side yard, within 15 feet of any street line or within 5 feet of any rear yard lot line not a street line. On reverse corner lots, no accessory building or accessory structure shall extend beyond the front yard line of the lot to its rear.



20. Article 7, Section 7.11 Private Community Centers (C) is amended by adding the following exception:

Exception – Private Community Centers may be permitted outside of the respective subdivision when located in BB-1.



21. Article 6, Section 6.02 Interpretation is amended by removing the last sentence from the Special Uses definition, renaming the subsection Special Use Permit, and adding a definition for Special Use with Supplemental Regulations as follows:

~~Special Uses:~~ **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. ~~Some Special Uses may also be subject to supplemental regulations outlined in Article 7.~~

**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.



22. Article 6, Section 6.06, MR-1 is amended by removing J2b, changing 2c 2b, and adding J2b verbiage as subsection M as follows:

J2 Any structure that is attached to the principal building by a conventionally framed and covered roof system, with a minimum width of 5 feet, may be considered part of the principal building and shall be required to comply with the minimal front yard setback requirements.

- i. The height may be no greater than 16 feet.
- ii. ~~Not more than 30% of total lot area may be covered by the main building, accessory structures and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~
- iii. (Change c. to b.) Concrete slabs in nonhabitable areas shall be a minimum of 3-1/2 inches in thickness.
  - i. All concrete must be a minimum of 4 inches from the property line. Concrete must not channel stormwater to streets.
  - ii. Control joints must not exceed 10 feet in any direction unless thickness is increased to 4 inches and welded wire (W1.4xW1.4), (W2.0xW2.0), (W2.9xW2.9) is used; then spacing of control joints may be increased to 30 feet. Control joints that are keyed or saw cut must be done within 24 hours of placement.
  - iii. No concrete may be allowed to be placed over any septic system.
  - iv. Expansion must be provided against any masonry or pilings of all structures.

Add Subsection M

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



23. Article 6, Section 6.06, MR-2 is amended by removing J2b, changing 2c 2b, and adding J2b verbiage as subsection M as follows:

J2 Any structure that is attached to the principal building by a conventionally framed and covered roof system, with a minimum width of 5 feet, may be considered part of the principal building and shall be required to comply with the minimal front yard setback requirements.

- a. The height may be no greater than 16 feet.

- ~~b. Not more than 30% of total lot area may be covered by the main building, accessory structures and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~
- c. (Change c. to b.) Concrete slabs in nonhabitable areas shall be a minimum of 3-1/2 inches in thickness.
  - i. All concrete must be a minimum of 4 inches from the property line. Concrete must not channel stormwater to streets.
  - ii. Control joints must not exceed 10 feet in any direction unless thickness is increased to 4 inches and welded wire (W1.4xW1.4), (W2.0xW2.0), (W2.9xW2.9) is used; then spacing of control joints may be increased to 30 feet. Control joints that are keyed or saw cut must be done within 24 hours of placement.
  - iii. No concrete may be allowed to be placed over any septic system.
  - iv. Expansion must be provided against any masonry or pilings of all structures.

Add Subsection M

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



24. Article 6, Section 6.06, MR-3 is amended by removing G2b, changing 2c 2b, and adding G2b verbiage as subsection M as follows:

J2 Any structure that is attached to the principal building by a conventionally framed and covered roof system, with a minimum width of 5 feet, may be considered part of the principal building and shall be required to comply with the minimal front yard setback requirements.

- a. The height may be no greater than 16 feet.
- ~~b. Not more than 30% of total lot area may be covered by the main building, accessory structures and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~
- c. (Change c. to b.) Concrete slabs in nonhabitable areas shall be a minimum of 3-1/2 inches in thickness.
  - i. All concrete must be a minimum of 4 inches from the property line. Concrete must not channel stormwater to streets.
  - ii. Control joints must not exceed 10 feet in any direction unless thickness is increased to 4 inches and welded wire (W1.4xW1.4), (W2.0xW2.0),

(W2.9xW2.9) is used; then spacing of control joints may be increased to 30 feet. Control joints that are keyed or saw cut must be done within 24 hours of placement.

- iii. No concrete may be allowed to be placed over any septic system.
- iv. Expansion must be provided against any masonry or pilings of all structures.

Add Subsection M

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



25. Article 6, Section 6.06 MB-1 is amended to add A5 as follows:

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



26. Article 6, Section 6.06 MB-2 is amended to add F as follows:

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



27. Article 6, Section 6.06 BR-1 is amended to add J as follows:

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted. Total Lot Area for stormwater purposes is the required building lot area as defined in F.



28. Article 6, Section 6.06 BR-2 is amended to add K as follows:

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



29. Article 6, Section 6.06 BB-1 is amended to add E as follows:

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted. Total Lot Area for stormwater purposes is the required building lot area as defined in D.



30. Article 6, Section 6.06 MH-1 is amended by removing G2, changing 3 to 2 and adding G2 verbiage as subsection N as follows:

- G. No accessory structure shall be erected in any front yard, required side yard, within 15 feet of any street line or within 5 feet of any rear yard lot line not a street line. On reverse corner lots, no accessory building or accessory structure shall extend beyond the front yard line of the lot to its rear.
  - 1. The height may be no greater than that of the manufactured home or 16 feet if a modular home or conventional home.
  - 2. ~~Not more than 30% of the total lot area may be covered by the main building, accessories and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspections Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~
  - 3. Concrete slabs in nonhabitable areas shall be a minimum of 3-1/2 inches in thickness. All concrete must be a minimum of 4 inches from the property line. Concrete must not channel stormwater to street. Control joints must not exceed 10 feet in any direction unless thickness is increased to 4 inches and welded wire (W1.4xW1.4), (W2.0xW2.0), (W2.9xW2.9) is used; then spacing of control joints may be increased to 30 feet. Control joints that are keyed or saw cut must be done within 24 hours of placement. No concrete may be allowed to be placed over any septic system. Expansion must be provided against any masonry or pilings of all structures.

Add Subsection N

Not more than 30% of the total lot area may be covered by the main building, accessories, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspections Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



31. Article 6, Section 6.06 MH-2 is amended by removing G2, changing 3 to 2, and adding G2 verbiage as subsection ~~N~~ M as follows:

1. No accessory structure shall be erected in any front yard, required side yard, within 15 feet of any street line or within 5 feet of any rear yard lot line not a street line. On reverse corner lots, no accessory building or accessory structure shall extend beyond the front yard line of the lot to its rear.
  
1. The height may be no greater than that of the manufactured home or 16 feet if a modular home or conventional home.
2. ~~Not more than 30% of the total lot area may be covered by the main building, accessories and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspections Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~
3. Concrete slabs in nonhabitable areas shall be a minimum of 3-1/2 inches in thickness. All concrete must be a minimum of 4 inches from the property line. Concrete must not channel stormwater to street. Control joints must not exceed 10 feet in any direction unless thickness is increased to 4 inches and welded wire (W1.4xW1.4), (W2.0xW2.0), (W2.9xW2.9) is used; then spacing of control joints may be increased to 30 feet. Control joints that are keyed or saw cut must be done within 24 hours of placement. No concrete may be allowed to be placed over any septic system. Expansion must be provided against any masonry or pilings of all structures.

Add Subsection ~~N~~ M

Not more than 30% of the total lot area may be covered by the main building, accessories, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspections Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.



32. Article 6, Section 6.06 RI-1 is amended to add I as follows:

Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.

33. Article 6, Section 6.06 CR-1 is amended to add J as follows:

Not more than 20% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted. Total Lot Area for stormwater purposes is the required building lot area as defined in B.

34. Article 6, Section 6.06 AF-1 is amended by removing J2b, changing c to b, changing the 2<sup>nd</sup> J to L, adding J2b verbiage as Subsection M and changing the 15% to 20% in the 1<sup>st</sup> sentence as follows:

2 Any structure that is attached to the principal building by a conventionally framed and covered roof system, with a minimum width of 5 feet, may be considered part of the principal building and shall be required to comply with the minimal front yard set back requirements.

a The height may be no greater than 16 feet.

~~b Not more than 15% of total lot area may be covered by the main building, accessory structures and impervious surfaces. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~

€ **b** Concrete slabs in nonhabitable areas shall be a minimum of 3-1/2 inches in thickness.

i All concrete must be a minimum of 4 inches from the property line.

Concrete must not channel stormwater to streets.

ii Control joints must not exceed 10 feet in any direction unless thickness is increased to 4 inches and welded wire (W1.4xW1.4), (W2.0xW2.0), (W2.9xW2.9) is used; then spacing of control joints may be increased to 30 feet. Control joints that are keyed or saw cut must be done within 24 hours of placement.

iii No concrete may be allowed to be placed over any septic system.

iv Expansion must be provided against any masonry or pilings of all structures.

‡ **L** The owner of a corner lot shall be required to specify which street line is the front when requesting a building permit for the original construction.

Add Subsection M



Uses	MR1	MR2	MR3	MB1	MB2	BR1	BR2	BB1	MH1	MH2	RI1	CR1	AF1	MUD
<b>CAMA</b> approved <b>dune walkovers</b> limited to a maximum of 1 per 4 building units						P	<del>P</del>					P		

4. Article 7 Supplemental Regulations

- Section 7.03 Modular Homes/Buildings (C) – removing wording “Volume 7”

(C) Modular must be labeled indicating compliance with the NC Building Code, ~~Volume 7.~~

5. Article 11 Signs; Outdoor Advertising Structures

- Section 11.07 Permits (D) – amending 1<sup>st</sup> sentence and adding last sentence which was omitted during UDO conversion

Signs shall not be placed in the ~~town-owned roadway~~ right-of-way and must be located outside the site visibility triangle. ~~However, political signs may be placed in the right-of-way.~~

6. Article 13 Subdivision Regulations

- Section 13.01 Preliminary Plat (C) – adding #13 to refer to 7.34 Open Space Requirements

**(13) Open Space Requirements for Single Family Developments reference Article 7.34 Supplemental Regulations**

7. Article 13 Subdivision Regulations

Section 13.01 Preliminary Plat (E) (2) – adding Underground Electrical Service Approval and renumbering remaining sections.

**(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.**

~~(2)~~ **(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*.

~~(3)~~ (4) Other information as deemed necessary by the *Planning Board*.



### UDO Amendments Adopted 4/06/15

#### 1. Article 7 Supplemental Regulations

Section 7.03 Modular Homes/Buildings – Removing sloped roof requirement for modular homes.

**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

~~(B) Minimum roof pitch shall be 7/12.~~

~~(C)~~ (B) Modular must be labeled indicating compliance with the NC Building Code.

~~(D)~~ (C) Off-frame modular only with an engineered foundation.



### UDO Amendments Adopted 5/11/15

#### 1. Article 7 Supplemental Regulations

Section 7.09 Privacy Fences – Amended language to allow placement of privacy fences for residential lots with unique characteristics in Section (B)(3).

(3) Side **fences** or walls shall be placed a minimum of five (5) feet behind the front footprint of the house. 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.



### UDO Amendments Adopted 6/29/15

#### 1. Article 6-Table of Permitted/Special Uses

Section 6.04 Outdoor Display and Storage of Merchandise – Amended language to remove SUP requirement.

P - Permitted Use

PS - Permitted Use with Supplemental *Regulations*

S - Special Use

SS - Special Use with Supplemental **Regulations**

Uses	MR1	MR2	MB3	MB1	MB2	BR1	BR2	BB1	MH1	MH2	RI1	CR1	AF1	MUD	Supplemental Regulations
<i>Outdoor display and storage of merchandise</i>				<b>SPS</b>	<b>SPS</b>			<b>SPS</b>							Section 7.26

2. Article 6-MR-3 Mainland Residential District

Section 6.06(C)(B) Amended language to change minimum lot size of single-family residential from 40,000 sq. ft. top 7,500 sq. ft.



**Section 6.06 (C)(B)** Minimum Required Mean Lot Area for any Single-Family Project: 40,000 7,500 sq. ft.

3. Article 6-BB1 Beach Business District

Section 6.06(H)(B)(2) Amended language (to add section (g)) to place density and grandfathering requirements onto multi-family developments within the BB1 zoning district as follows:

**g** ~~RESERVED (Am. Ord. 06/02/14)~~ Maximum Density: 21.7 units per acre. For all multi-family buildings that contain dwelling units which result in a density above this density standard that were existing as of 6-29-15, the nonconforming standards of Section 8.03 (Nonconforming Buildings Containing A Non-Conforming Use) shall not apply and a building may be rebuilt with the same number of units that existed on 6-29-15.

In no case shall the existing building or parcel upon which the building stands be developed, subdivided, re-subdivided, or redeveloped whereby the result would allow more density per acre than what was existing at the time of Council's adoption.

In the event the use of the building moves to another land use classification (in whole or in part) as identified in Section 6.04, then this provision shall no longer apply and the building shall conform to all provisions of Article 8, Nonconformities.



**UDO Amendments Adopted 8/3/15**

1. Article 10 Landscaping repealed and replaced as follows:

**REPEALED LANGUAGE AS FOLLOWS:**

~~Section 10.01 Landscape and Buffer Requirements ..... 10-2~~  
~~Section 10.02 Preservation of Trees ..... 10-8~~  
~~Section 10.03 Maintenance ..... 10-10~~  
~~Section 10.04 Tree Clearing Provisions ..... 10-10~~  
~~Section 10.05 Individual Single Family Residential Landscape of Lots less than one acre..... 10-16~~

**SECTION 10.01 LANDSCAPE AND BUFFER REQUIREMENTS**

The intent of this section is to provide procedures and standards for review and approval of site and **landscaping** design plans of commercial, **multi-family** projects, and new residential **subdivision developments** to ensure they comply with the provisions of this section and meet the **development** policies established by the Town.

~~(A) Purpose.~~

~~(1) To regulate site planning and **landscaping** in order to:~~

- ~~(a) Enhance and preserve the economic and aesthetic qualities of the Town as an attractive and progressive community;~~
- ~~(b) Protect and maintain the value of existing property;~~
- ~~(c) Lessen traffic congestion and minimize traffic safety problems;~~
- ~~(d) Preserve and enhance the natural resources of the Town in order to provide aesthetic and other public benefits, such as **pollution** abatement, erosion and run-off control, energy conservation, enhancement of property values, minimization of **flood** hazards, and continued maintenance of the ecology systems;~~
- ~~(e) Minimize any adverse impacts of new **development** on existing uses through provision of screening, **buffering**, **landscaping**, and other techniques; and~~
- ~~(f) Protect public investment by mitigating impacts generated by new **development** on existing public facilities and utilities.~~

~~(2) When, for any reason, an existing business, without a previously approved **landscaping** plan ceases to operate in a non-residential business district and a new business seeks to operate on that same site, the property owner shall submit to the **UDO Administrator** a **landscaping** plan as required in Subsection (C) below.~~

(B) ~~Exemptions:~~

(1) ~~Individual **single-family** detached residential **lots** including duplexes.~~

(2) ~~All bona fide agricultural land use is exempt from this section.~~

(C) ~~**Landscaping Plans.** A **landscaping** plan and general application shall be submitted to the **UDO Administrator**. The **site plan, site plan** amendment, and **landscaping** plan shall be reviewed by the **UDO Administrator** for all permitted uses.~~

(1) ~~A **landscaping** plan shall be submitted before or at the time of application for the building permit for all commercial, **multi-family** projects, and residential **subdivision development** projects. The plan shall contain the following information:~~

(a) ~~Name, address, and telephone number of the owner of the site; address of **development** site; name, address, and telephone number of the **applicant** if contractor, or agent of the property owner.~~

(b) ~~Date of plan preparation.~~

(c) ~~Project name and description of land use.~~

(d) ~~A plan at a scale as appropriate to size and scope of project showing:~~

1. ~~North arrow.~~

2. ~~Graphic scale.~~

3. ~~Locations and species of all heritage trees, as defined in Appendix A. If groves of heritage trees exist that will not be removed or disturbed, it is permitted to label the grove as such on the plan, stating the approximate number of trees, without specifying data on each individual tree. Reasons for removing heritage trees shall be explicitly stated on the plan.~~

4. ~~Any proposed grade changes which might adversely affect or endanger any tree to be retained with a statement of how the tree is to be protected and maintained.~~

5. ~~Locations, dimensions, and square footage of required **buffer** strips and **parking lot landscaping**.~~

6. ~~Details of required **landscaping** showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation.~~

7. Location and square footage of ~~structures~~ and improvements, ~~parking lots~~, existing and/or proposed utility services roadways, bikeways, and walkways.
8. Adjacent ~~zoning~~ districts.
9. Current ~~zoning~~ of the property.
10. Approximate locations of all trees greater than ten (10) inches diameter within required ~~buffer~~.

(2) Proposed schedule for ~~landscaping~~.

(3) If any new or retained tree shown on the approved ~~site plan~~ dies or is removed by the developer within one (1) year after the issuance of the ~~certificate of occupancy~~ or the granting of ~~final plat~~ approval, it shall be replaced by planting a new tree having a minimum caliper of two (2) inches.

(D) ~~General Landscaping Requirements.~~ A minimum of fifteen (15) trees at least two (2) inches in diameter, measured four and one half (4.5) feet above ground, shall be retained or planted on the parcel for each acre of ~~development~~, or shall be prorated accordingly. If any heritage trees are to be cleared from the site, reasons for doing so shall be clearly stated on the landscape plan. Suitable reasons for clearing one (1) or more of these trees could include such factors as it is impossible to position buildings on the parcel and meet ~~setback~~ requirements without tree removal. Unsuitable reasons include such factors as more parking than the minimum specified is desired or that non-selective clearing by builder is less expensive than selective clearing. Only ~~landscaping~~ plastic which allows rain water to flow through is permitted. Solid plastic cover is prohibited.

(E) ~~Planting Areas along Boundaries of Right of Ways.~~

(1) Within every fifty (50) feet of ~~lot frontage~~ along any ~~street~~, a planting area eight (8) feet in depth immediately interior to the sidewalk shall contain one (1) tree eight (8) feet in height, or three (3) flowering trees five (5) feet in height, and six (6) shrubs eighteen (18) inches in height. Height measurements shall be at time of planting.

(2) Adequate sight angles as required by North Carolina Department of Transportation roadway standards shall be maintained in accordance with Article 2, Section 2.08 Sight Visibility Triangle of the Town of Sunset Beach Unified Development Ordinance (UDO).

(F) ~~Interior Planting Areas.~~

(1) Interior ~~landscaping~~ shall be provided equal to eight percent (8%) of the gross paved area to be used for parking, loading, or vehicular use. ~~Landscaping~~ shall be in the form of planting islands, either separate or protruding from the perimeter ~~landscaping~~.

- (2) — Each island shall be a minimum of eight (8) feet in width and no less than one hundred (100) square feet overall. Each island shall contain at least one (1) tree eight (8) feet in height and six (6) shrubs eighteen (18) inches in height at planting.
- (3) — Consecutive **parking spaces** shall incorporate landscaped peninsulas no more than fifteen (15) spaces apart and at the ends of all parking rows. Peninsulas shall contain one hundred forty four (144) square feet of area and be at least eight (8) feet in width. When a business establishment is required to provide over three hundred (300) **parking spaces** by the Town's Ordinance, the **Planning Board** may waive the requirement for a **landscaping** island every fifteen (15) consecutive spaces if: 1) the parking area and **landscaping** islands are located to the rear or sides of the building, and 2) the parking area is not visible from any public right-of-way from which the business establishment has ingress and egress. If the **Planning Board** waives the fifteen (15) consecutive space requirements for **landscaping** islands, a **landscaping** island must be installed at a maximum of every thirty (30) consecutive spaces. All other applicable **landscaping**, dimensional and parking requirements shall apply.
- (4) — All interior plantings, including islands, shall be curbed or blocked for protection.
- (G) — **Buffer Strips.** **Buffer** strips shall be required when a nonresidential use is developed immediately adjacent to an existing residential use.
- (1) — Planted **buffer** strips. The planted **buffer** strips shall be at least six (6) to eight (8) feet tall and give approximately seventy five percent (75%) visual opacity, year round, within one (1) year of planting. Three (3) rows of planted materials shall be required to a minimum depth of fifteen (15) feet.
- (2) — Approved type screening shall be required to shield outside storage areas, loading/unloading areas, heating and air conditioning units, dumpsters, or trash storage areas.
- (3) — The following means to create a **buffer** shall be used:
- (a) — Natural vegetation may be retained to meet this requirement.
- (b) — One (1) or more of the following means shall be used to supplement the natural vegetation as necessary or to provide an adequate **buffer** where no natural vegetation exists:
1. — **Planted Buffer Strips.** The planted **buffer** strip shall be at least six (6) to eight (8) feet tall and give approximately seventy five percent (75%) visual opacity within one (1) year of planting. Three (3) rows of planted materials shall be required to a minimum depth of fifteen (15) feet.

2. ~~Combination Planted **Buffer Strip with Artificial Privacy Fencing or Wall. 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 adjustments shall be made by vertical steps not to exceed six (6) feet in height. Both sides of a **fence** or wall must be equal in construction and appearance. The **fence** or wall shall extend along and be set back at least four (4) inches from the property line.~~
3. ~~Earthen Berms in Conjunction with Planted Vegetation. The berm shall be at least four (4) feet high and stabilized with permanent grass or sod within thirty (30) days of construction during normal planting seasons. The use of temporary rye grass will be allowed during winter months but shall be replaced with permanent grassing within thirty (30) days of the beginning of the next normal growing season. Temporary rye grass is not considered as permanent grassing. The total height of the berm and planted vegetation shall be a minimum of six (6) feet high and provide seventy five percent (75%) visual opacity within one (1) year of planting. The slope of the berm shall be no steeper than 3:1. It shall have a level or rounded area on top and be constructed of compacted earth. The Planning Board may modify or waive the requirements of a **buffer** where it can be demonstrated by the property owner that the specified screening **buffer** is not needed for the protection of surrounding residential areas because of intervening **streets**, roadways, drainage ways, or other factors such as natural growth of sufficient height and density to serve the same purpose as the required screening **buffer**.~~

(H) ~~Maintenance and Uses within the **Buffer Strip**.~~

- (1) ~~All berms and planted living material shall be adequately maintained and irrigated by the owner of the property on which it is located. Any plantings, which become diseased or die, shall be replaced by the owner on a continuing basis for the **development** in order to maintain seventy five percent (75%) visual opacity. Storm water retention ponds shall be encouraged to be integrated into the landscape plan.~~
- (2) ~~No activities shall occur in the **buffer** except for maintenance of the **buffer** and the installation and maintenance of water, sewer, electrical, and other utility systems.~~

(I) ~~Administration and Enforcement.~~

- 1) ~~Prior to the issuance of a building permit for any new project or renovation or expansion to an existing project required to have **landscaping**, a plan shall be prepared in conformance with the provisions of this Ordinance and shall be submitted to and approved by the **UDO Administrator**.~~
- 2) ~~No **certificate of occupancy** for any construction or renovation shall be approved by the Building Inspector until the required **landscaping** is completed in accordance with the approved plan.~~
- 3) ~~Any person, firm, or corporation who violates any provision of this article shall be subject to the penalty provided in Section 1.12.~~

~~(J) **Critical Root Zone.**~~

- 1) ~~Sunset Beach recognizes the importance of adequately protecting trees during the construction phase of **developments**. To this end, no excavation or other subsurface disturbances may be undertaken within the **critical root zone** of a tree. Said **critical root zone** shall be marked by means of a barrier **fence**. In cases where, because of utility extension, sidewalk installation, or other site improvements, it is neither prudent nor possible to avoid land disturbance activity in the **critical root zone** area, the developer shall, upon consultation with the **UDO Administrator**, provide the Town with a root disturbance mitigation plan which shall outline a specific course of action for minimizing damage to a tree's root system.~~
- 2) ~~If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsection (1) and, as a result, the parking requirements set forth in Article 9, Part II, cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" up to a maximum of fifteen percent (15%) of the required spaces.~~

~~**SECTION 10.02 PRESERVATION OF TREES**~~

~~(A) *Purpose.* The purpose of this section is:~~

- 1) ~~To recognize the importance of mature trees to the quality of life;~~
- 2) ~~To conserve energy and retard storm water runoff;~~
- 3) ~~To safeguard and enhance property values and to protect public and private investment through protection of significant **existing trees**, and~~
- 4) ~~To prevent the indiscriminate removal of trees.~~
- 5) ~~To protect trees considered valuable to the Town of Sunset Beach as defined in Appendix C, Heritage Trees/Plant List.~~

~~(B) *Tree Removal Permit Required.*~~

- (1) ~~No person, land owner, or corporation directly or indirectly, shall remove any heritage tree from private property without first obtaining a tree removal permit as provided in this chapter. The requirement for tree removal permits shall apply within the entire area covered by the Town's **zoning** authority including the areas known as the mainland, beach, and extra territorial jurisdiction except a parcel of land occupied by a **single-family** home, **duplex**, or **triplex** building.~~
- (2) ~~All persons seeking a permit for removal of a heritage tree shall make applications to the Building Inspector.~~
- (3) ~~The Building Inspector shall issue a tree removal permit if the **applicant** demonstrates one (1) or more of the following situations:~~
  - (a) ~~For **new construction**, the **applicant** is able to show that essential site improvements cannot be installed without removal of the heritage tree(s). Examples of essential site improvements are the principal/**accessory building(s)**, off **street** parking, driveway, storm water management facilities;~~
  - (b) ~~The heritage tree is dead, severely diseased, injured, or in danger of falling close to existing or proposed **structures**;~~
  - (c) ~~The heritage tree poses an identifiable threat to individuals or **public safety**, and/or~~
  - (d) ~~Removal of the heritage tree is necessary to enhance or protect the health or condition of adjacent trees.~~
- (4) ~~Moving heritage trees is encouraged if adequate care is taken to ensure survival of the tree.~~
- (5) ~~Heritage trees permitted to be removed shall be replaced on a one (1) for one (1) basis with an approved tree. Size and species are to be determined from a standard approved tree list established and published by Town Hall.~~
- (6) ~~**Golf courses** may remove trees based on the following standards:~~
  - (a) ~~Any **golf course** operation may remove up to twenty five (25) trees per year without justification. A permit will be required for tracking purposes; however, no basis for removal is required for up to twenty five (25) trees annually.~~
  - (b) ~~For all trees in excess of twenty five (25), **golf courses** must comply with the Town's standard tree removal policy.~~

(C) ~~Requirements for Tree Removal Permit Application.~~

- (1) ~~Brief written description of the reason for removal of the tree(s).~~

- (2) — A ~~*site plan*~~, prepared by a professional surveyor, showing the approximate location of all heritage trees or groups of trees, location and ~~*footprint*~~ of any and all existing or proposed buildings and ~~*structures*~~, and the removal plan must identify the size, species, height, dripline, and health of all heritage trees and groups of trees.
- (3) — A description of the methods proposed to move a heritage tree, if applicable.
- (4) — Photographs of trees, or groups of trees, to be removed.
- (5) — Any other information that may be required by the Building Inspector to issue the permit.
- (6) — The Building Inspector may require a report from an arborist, horticulturalist, or other Town-approved professional regarding the health of a tree to be removed.

### **SECTION 10.03 MAINTENANCE**

~~In order for any screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance, and free of litter and debris. Any live screening materials such as shrubs and trees which may die must be replaced in compliance with the minimum standards of this Ordinance. All screening and landscaping areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening. Landscaped areas shall be kept in a proper, neat, and orderly appearance and free from refuse and debris. All unhealthy or dead plant material shall be replaced by the property owner or tenant. Failure to maintain the required landscape materials shall constitute a zoning violation and shall be remedied in accordance with the provisions of Section 1.12.~~

### **SECTION 10.04 TREE CLEARING PROVISIONS**

- (A) — *Purpose.* ~~The Tree Clearing Certificate requirement has been developed to implement the enabling legislation granted to the Town by the North Carolina General Assembly. The purposes of these regulations are to:~~
- (1) — ~~Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet development plan requirements;~~
  - (2) — ~~Preserve existing tree and vegetative cover to protect the health, safety, and welfare of the public by preserving the visual and aesthetic qualities of the Town; maintaining property values; controlling erosion; and reducing sediment and other pollutant run-off into streams and waterways in an effort to protect water quality; and~~

- (3) ~~To create a process whereby some properties are required to obtain a tree-clearing certificate, recognize some properties are exempted from the requirement to obtain a tree-clearing certificate prior to the removal of vegetation, and establish penalties for removal of all or substantially all of the required vegetation within required-vegetation-protection areas.~~
- (B) ~~*Applicability.* The requirements for obtaining a Tree Clearing Certificate and penalties for non-compliance are applicable to all undeveloped properties which are zoned for residential or nonresidential use located within the Town Limits and/or Extraterritorial Jurisdiction (ETJ). For the purposes of this section, undeveloped properties shall include any property within the Town's jurisdiction which is not subject to an approved development plan.~~
- (C) ~~*Exemptions from Tree Clearing Certificates.* The requirement to obtain a Tree Clearing Certificate shall not apply to the activities listed below.~~
- (1) ~~Normal forestry activities taking place on property which is taxed under the present use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the North Carolina General Statutes, and provided such activities are accomplished in compliance with Section 10.04(G).~~
- (2) ~~Properties with a Town-approved development plan, provided such plan has not expired and that any clearing or vegetation removal is done in strict accordance with the approved development plan.~~
- (3) ~~The removal of vegetation by public or private agencies within the lines of any public street right-of-ways, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.~~
- (4) ~~The Town-initiated or approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.~~
- (5) ~~The removal of vegetation on property located within an approved residential subdivision which is zoned for single family use, and provided such vegetation is not a portion of a required streetscape or other landscaping buffer.~~
- (D) ~~*Required Buffers and Vegetation Protection Areas.* Other than that necessary to gain reasonable access to the property, clearing, and/or removal of trees and other vegetation shall be prohibited in the areas listed below. In situations where one or more buffer zones~~

~~or vegetation protection areas overlap on the same site, then the more restrictive requirement shall apply.~~

- ~~(1) — A perimeter streetscape zone having a width of fifty (50) feet as measured from all ultimate property boundaries which adjoin existing roadways as depicted in the Sunset Beach Transportation Plan or as required in Section 10.01. For the purposes of this section, the term ~~ultimate property boundary~~ of a parcel or tract shall mean the final demarcation line around the perimeter of a parcel excluding all areas which must be dedicated to the Town for use as right-of-ways.~~
- ~~(2) — A perimeter buffer zone having a width of sixty five (65) feet as measured from all property boundaries which adjoin developed property or vacant property with an approved development plan.~~
- ~~(3) — A perimeter buffer zone having a width of thirty two (32) feet as measured from all property boundaries which adjoin undeveloped property or vacant property without an approved development plan.~~
- ~~(4) — Any other areas necessary for the protection of existing vegetation as indicated within this Ordinance (e.g., riparian buffers).~~

~~(E) — *Application Requirements.*~~

- ~~(1) — An application for a Tree Clearing Certificate is not required for those activities which can demonstrate an exemption in accordance with the provisions of Section 10.04(C) above.~~
- ~~(2) — An application for a Tree Clearing Certificate may be filed only by all the owners of the property or by such owners' authorized agent.~~
- ~~(3) — An application for a Tree Clearing Certificate shall be filed with the Planning and Inspections Department on a form prescribed by the Department, along with the fee prescribed by the Town Council.~~
- ~~(4) — The application form shall be accompanied by a Vegetation Protection Plan which shall include, at a minimum, the following information:
  - ~~(a) — Vicinity map showing the location of the tract at a readable scale.~~
  - ~~(b) — A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (e.g., drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements).~~~~

- (c) ~~General information about the tract, including but not limited to the owner of the tract, the current zoning of the tract, the area of the tract, and the conditional use zoning conditions, planned unit development master plan requirements, if applicable.~~
  - (d) ~~The owner, current zoning, and present use of all contiguous properties (including property on opposite side of adjoining streets).~~
  - (e) ~~The location and width of all future/existing buffers and associated vegetation protection areas, including riparian buffers, perimeter buffers and perimeter streetscapes.~~
  - (f) ~~The proposed limits of timbering activities, including the location and extent of all tree protection fencing as required under of this Ordinance.~~
- (5) ~~The UDO Administrator may reduce or waive the requirements for a Vegetation Protection Plan in situations where it can be demonstrated that all vegetation removal will take place outside of required vegetation protection areas.~~
- (F) ~~*Procedure.* Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent must demonstrate exemption from the requirements of this section, or submit the required application materials and applicable fees for a Tree Clearing Certificate.~~
- (1) ~~Upon receipt of documentation that a property is exempted from obtaining a Tree Clearing Certificate, the UDO Administrator shall review all materials and make a determination if a property is exempted from the requirements, or if the requirements apply. In situations where exemption status is claimed based on forestry use, this documentation shall include proof that the property is taxed under the present use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester. The decision of the UDO Administrator may be appealed to the Board of Adjustment.~~
  - (2) ~~If a property is not exempted from the provisions pertaining to a Tree Clearing Certificate, then such application materials shall include a Vegetation Protection Plan consistent with the requirements listed in Section 10.04(E)(4) above.~~
  - (3) ~~The Vegetation Protection Plan shall be reviewed by the UDO Administrator based upon the provisions of this Ordinance. The UDO Administrator may defer the decision on the Vegetation Protection Plan to the Town Council if he or she has concerns about the plans ability to meet the standards of this Ordinance. In the event the UDO Administrator disapproves the plan, an appeal may be filed with the Town Council within ten (10) days of disapproval. If an appeal is filed, the Town Council shall decide whether to consider the appeal by majority vote and may affirm, reverse, or modify the UDO Administrator's approval.~~

- (4) ~~An applicant for a Tree Clearing Certificate shall be notified upon approval of the Vegetation Protection Plan, and shall be free to erect or install any and all barriers necessary to protect existing vegetation within required buffer areas and vegetation protection areas from damage during tree clearing and/or removal activities.~~
- (5) ~~Once all barriers for the protection of existing vegetation have been installed, a property owner or agent shall request inspection of such barriers for compliance with the requirements of this Ordinance.~~
- (6) ~~Upon a passing inspection of vegetation protection barriers, the UDO Administrator shall issue a Tree Clearing Certificate, and authorized vegetation clearing and/or removal may commence.~~
- (7) ~~An approved Tree Clearing Certificate shall be valid for a period of not more than twelve (12) months from the date of issuance.~~

(G) ~~*Non-Compliance.* Failure to comply with the provisions of this section shall constitute a violation of this Ordinance, and shall subject an offending party to a series of actions, including the payment of fines, delay in development plan approval or building permit issuance. Table 10-1 describes the penalties for non-compliance with this Section. An ~~X~~ in a particular cell indicates the associated penalty which applies:~~

Table 10-1. Penalties for Non-Compliance

Type of Violation	Payment of Fines (based on Section 1.12)	Review of all subsequent Site Plans by Town Council	Five-year delay in approval of a Building Permit or Site Plan	Requirement to double the landscaping provisions during Site Plan review
Property is exempt from Tree Clearing Certificate requirements, but all or substantially all* vegetation within required buffers and/or vegetation protection areas is removed		✘	✘	✘
Property owner obtains a Tree Clearing Certificate, but removes some of the vegetation within a required buffer and/or tree protection area	✘			✘
Property is not exempt from Tree Clearing Certificate	✘	✘		✘

requirements; but property owner obtains no Certificate, and removes some of the vegetation within a required buffer and/or tree protection area				
Property is not exempt from Tree Clearing Certificate requirements; but property owner obtains no certificate, and removes all or substantially all* of the vegetation within a required buffer and/or tree protection area		x	x	x

\* all or substantially all shall mean seventy five (75) percent or more the existing trees with a caliper of four (4) inches or greater.

**Section 10.05 Individual Single Family Residential Landscape of Lots less than one acre.**

~~H. Purpose—The purpose of this section is to establish residential landscaping standards that will promote the following goals:~~

- ~~3. To enhance the value of residential properties and neighborhoods within the jurisdiction of the town by implementing standards to protect, regulate, and maintain the appearance of residential properties;~~
- ~~4. To preserve and enhance the natural resources of the town in order to provide aesthetic and other public benefits, including:
 
  - ~~f. Pollution abatement;~~
  - ~~g. Storm water erosion and run-off control;~~
  - ~~h. Energy conservation;~~
  - ~~i. Minimization of flood hazards; and~~
  - ~~j. Continued maintenance of ecology systems.~~~~

~~I. Application~~

- ~~3. This section and all its divisions shall apply within the entire area covered by the town's zoning authority including the areas known as the mainland, beach and extraterritorial jurisdiction. The term residential structures includes all forms of structures that are built as residences, including single family houses, townhouses, multi family condominiums, manufactured homes, cooperative residences and apartment buildings.~~
- ~~4. This section applies to newly built structures as specified below: all sections apply to the landscaping and maintenance of the landscaping requirements on all newly built residential structures and existing structures that undergo renovations or repairs that exceed 50 percent of tax value on which permitting is applied for after the date this section is enacted.~~

~~J. Process and requirements for submitting request for approval of landscaping plans for residential structures.~~

- ~~4. Approval of the landscaping plan must be secured prior to the issuance of a certificate of occupancy.~~
- ~~5. Submission of the landscaping plan by the developer to the Planning Board an illustration on an approved site plan that specifies that the minimum standards~~

established by way of this section have been met. Submission shall include agreement in writing by the developer and the property owner that:

b. ~~The landscaping plan shall be installed prior to the issuance of a certificate of occupancy for the subject property; or (b) shall be secured and installed within 90 days after the date the certificate of occupancy is issued. In cases where circumstances outside of the control of the developer or property owner prevent the installation of landscaping within the statutory 90 days (such as a major natural disaster), the Planning Board may approve an extension up to 180 additional days.~~

6. ~~The homeowner understands and agrees to perpetual maintenance of landscaping that meets the minimum requirements of this section, including timely maintenance of components of the landscaping on which neglect may result in health and human safety issues as specified herein.~~

K. ~~Issues to be considering when establishing a landscaping plan.~~

10. ~~Existing natural vegetation should be retained and preserved whenever possible.~~

11. ~~Installation of vegetation indigenous to the immediate natural coastal ecosystem is preferred to promote proper plant life development and maturation.~~

12. ~~Plantings and/or privacy fencing should result in a screening of utility areas and from adjacent yards.~~

13. ~~Ground cover is mandatory on all portions of exposed ground or earth not occupied by other approved landscape material.~~

14. ~~Existing vegetation that is preserved on the lot during the construction period may be included as part of the minimum requirements.~~

15. ~~Plan shall include at least one front yard planting bed.~~

16. ~~Any component or any portion of a private septic system or other private sewage treatment system that is above grade shall be screened with landscaping components and approved as part of the overall landscaping plan.~~

17. ~~Parts of this UDO may be altered at the discretion of the Planning Board on the recommendation of the Building Inspector's office to resolve issues emanating from unusual site conditions or configuration.~~

18. ~~A list of trees and shrubs indigenous to this area is available at the Town Hall.~~

L. ~~Minimum landscaping requirements~~

4. ~~Sufficient existing and installed landscaping materials shall be selected and illustrated on the landscaping plan as to incorporate the issues listed in division (D) above and result in a minimum material point value of 36 points based on the following:~~

MATERIAL TYPE	MAINLAND POINT VALUE	ISLAND POINT VALUE
Existing Trees	10	10
New Large Tree	6	6
New Small to Medium or Ornamental Tree	4	4
New Large Shrub	3	3
New Medium Shrub	2	2
New Small Shrub	1	1
Sod	3	8
Irrigation System	3	8

Example: If a 50-foot by 100-foot lot is required to provide a 30-foot buffer, the lot's usable area is reduced by 30 percent; therefore, the required minimum point value would be 25.

(36 point requirement x 70 percent of usable lot area)

100'	
Total 5000' sq. ft.	Usable 1500 sq. ft.
70% usable	30%
50'	30 sq. ft.

5. ~~Although there is no material point value for ground covers other than sod (such as natural ground cover, pine straw and other typical ground cover material) or for privacy fencing as may be used to screen air conditioning units or heat pumps, the items will be considered as acceptable for resolving items of issue as listed in division (D) above.~~
6. ~~No landscaping using impervious material such as solid plastic and vinyl will be permitted.~~

**M. Coastal Area Management Act (CAMA) exemptions**

4. ~~Area of environmental concern—Any lot or portion thereof that has been designated as a CAMA buffer or area of environmental concern (AEC) shall be exempt from the landscaping requirements in deferment to the CAMA regulations that apply.~~
5. ~~Frontal Dunes—Frontal dunes shall be exempt from the landscaping requirements, as set forth in this section. However, owners of properties with frontal dunes shall plant approved vegetation on at least 25 percent of the frontal dune area. Approved vegetation includes, but is not limited to, American Beach Grass (Fall/Winter planting), Sea Oats (Spring/Summer planting), Seashore Elder (Spring planting), Bitter Panicum (Spring/Summer planting) and Spartina Patens (Spring planting).~~

~~Point reductions on exempt lots—The required minimum point value shall be reduced by the corresponding percentage of the lot that is exempt from this section.~~

**REPLACED WITH THE FOLLOWING:**

Article 10 Landscaping:

Section 10.01 Purpose and Application .....	10-02
Section 10.02 General Landscaping & Submittal Requirements .....	10-04
Section 10.03 Maintenance .....	10-07
Section 10.04 Nonresidential Landscaping Requirements .....	10-07
Section 10.05 Residential Landscaping Requirements .....	10-11
Section 10.06 Preservation of Trees .....	10-12

**SECTION 10.01 PURPOSE AND APPLICATION**

The intent of this Article is to provide procedures and standards for review and approval of site and **development** plans to ensure they comply with the **landscaping** provisions of this Article and meet the **development** policies established by the Town.

(A) *Purpose.*

- (1) To regulate site planning and **landscaping** in order to:
  - (a) Enhance and preserve the economic and aesthetic qualities of the Town as an attractive and progressive community;
  - (b) Protect and maintain the value of existing property;
  - (c) Lessen traffic congestion and minimize traffic safety problems;
  - (d) Preserve and enhance the natural resources of the Town in order to provide aesthetic and other public benefits, such as **pollution** abatement, erosion and run-off control, energy conservation, enhancement of property values, minimization of **flood** hazards, and continued maintenance of the ecology systems;
  - (e) Minimize any adverse impacts of new **development** on existing uses through provision of screening, **buffering, landscaping**, and other commonly established and accepted techniques; and
  - (f) Protect public investment by mitigating impacts generated by new **development** on existing public facilities and utilities.

(B) *Application.*

- (1) This Article and all its divisions shall apply to all new residential, commercial and **substantially improved** structures within the entire area covered by the town's zoning authority including the areas known as the mainland, beach and extraterritorial jurisdiction unless expressly exempted within this Article.
- (2) For the purposes of applying this Article, "residential" shall consist of all single family and duplex, triplex, or quad-plex residential structures or structures containing 2-4 attached units on one lot. The intent of this section is to address individual residential structures containing the aforementioned number of units on a single piece of land. All other development types shall be considered "nonresidential" development.
- (3) When, for any reason, an existing business, without a previously approved **landscaping** plan ceases to operate in a nonresidential business district and a

new business seeks to operate on that same site, the property owner shall submit to the **UDO Administrator** a **landscaping** plan as required in Subsection (C) below.

- (4) For existing businesses with a previously approved, but legally nonconforming **landscaping** plan, and a new business seeks to operate on the same site, the **UDO Administrator** shall require conformance and maintenance of the existing, approved plan. If conformance to the existing plan is not achievable or undesirable by the applicant as outline in (3) above, the applicant may submit a new plan that shows conformance with this Article.
- (5) In all cases, any **landscaping** plans associated with a legal, nonconforming use shall be subject to all requirements for nonconforming situations found in Article 8.

(C) *Administration and Enforcement.*

- (1) Prior to the issuance of a building or zoning permit for any activity outlined in Subsection (B) above, a **landscaping** plan shall be prepared and reviewed in conformance with the provisions of this Article and shall be submitted to and approved by the **UDO Administrator**.
- (2) No **certificate of occupancy** shall be approved by the Building Inspector until the required **landscaping** is completed in accordance with the approved plan. In cases where circumstances outside of the control of the developer or property owner (i.e. natural disaster) prevent the installation of **landscaping** prior to the issuance of certificate of occupancy, the Planning Board may approve an extension up to 180 additional days.
- (3) Any person, firm, or corporation who violates any provision of this article shall be subject to the penalty provided in Section 1.12 of the Town's Unified Development Ordinance.
- (4) Planting and design standards of this ordinance may be altered at the discretion of the Planning Board upon the recommendation of the **UDO Administrator** to resolve issues emanating from unusual site conditions or configuration so long as the proposed plan is of equal or better performance to the stated standard.

(D) *Exemptions.*

- (1) All bona fide agricultural land use is exempt from this section.
- (2) In CAMA Areas of Environmental Concern, any lot or portion thereof that has been designated as a CAMA buffer shall be exempt from the **landscaping** requirements in deferment to the CAMA regulations that apply.

- (3) Frontal dunes shall be exempt from the **landscaping** requirements, as set forth in this Article. However, owners of properties with frontal dunes shall plant approved vegetation in accordance with Section 10.02(B)(7).

## **SECTION 10.02 GENERAL LANDSCAPING AND SUBMITTAL REQUIREMENTS**

- (A) **Landscaping Plans.** A **landscaping** plan and general application shall be submitted to the **UDO Administrator**. The **landscaping** plan shall be reviewed by the **UDO Administrator** for all permitted uses. **Landscaping** plans shall not be required for single family and duplex homes on a single lot; however, the requirements specified in Section 10.05 shall be satisfied prior to issuance of a Certificate of Occupancy.
- (1) A **landscaping** plan shall be submitted and approved prior to issuance of a building permit.
- (2) **Landscaping** Plans shall contain the following information:
- (a) Name, address, and telephone number of the owner of the site; address of **development** site; name, address, and telephone number of the **applicant** if contractor, or agent of the property owner.
  - (b) Date of plan preparation.
  - (c) Project name and description of land use.
  - (d) A plan at a scale as appropriate to size and scope of project showing:
    1. North arrow.
    2. Graphic scale.
    3. Locations and species of all **heritage trees**, as defined in Appendix A. If groves of **heritage trees** exist that will not be removed or disturbed, it is permitted to label the grove as such on the plan, stating the approximate number of trees, without specifying data on each individual tree. Reasons for removing **heritage trees** shall be explicitly stated on the plan.
    4. Any proposed grade changes which might adversely affect or endanger any tree to be retained with a statement of how the tree is to be protected and maintained.
    5. Locations, dimensions, and square footage of required **buffer** strips and **parking lot landscaping**.

6. Details of required **landscaping** showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation.
  7. Location and square footage of **structures** and improvements, **parking lots**, existing and/or proposed utility services roadways, bikeways, and walkways.
  8. Adjacent **zoning** districts.
  9. Current **zoning** of the property.
  10. Approximate locations of all trees greater than ten (10) inches diameter within required **buffer**.
- (3) Proposed schedule for **landscaping** implementation.
  - (4) If any new or retained tree shown on the approved **site plan** dies or is removed by the property owner within one (1) year after the issuance of the **certificate of occupancy** or the granting of **final plat** approval, it shall be replaced by planting a new tree having a minimum caliper of two (2) inches.
  - (5) The property owner understands and agrees to perpetual maintenance of **landscaping** that meets the minimum requirements of this section, including timely maintenance of components of the **landscaping** on which neglect may result in health and human safety issues as specified herein.

(B) **General Landscaping Requirements.**

- (1) Existing natural vegetation should be retained and preserved whenever possible and may be included as part of the minimum requirements. Installation of vegetation indigenous to the immediate natural coastal ecosystem is preferred to promote proper plant life development and maturation. A list of trees and shrubs indigenous to this area is available at the Town Hall.
- (2) If any **heritage trees**, are to be cleared from the site, reasons for doing so shall be clearly stated on the landscape plan. Suitable reasons for clearing one or more of these trees could include such factors as it is impossible to position buildings on the lot and meet **setback** requirements without tree removal. Unsuitable reasons include such factors as more parking than the minimum specified is desired or that non-selective clearing by builder is less expensive than selective clearing.
- (3) Only **landscaping** fabric which allows rain water to flow through is permitted. Solid plastic cover is prohibited.
- (4) Ground cover is mandatory on all portions of exposed ground or earth not occupied by other approved landscape material.

(5) Any component or any portion of a private septic system or other private sewage treatment system that is above grade shall be screened with **landscaping** components and approved as part of the overall **landscaping** plan.

(6) Plantings and/or privacy fencing should result in a screening of utility areas and from adjacent yards.

(7) Owners of properties with **primary frontal dunes** shall plant approved vegetation on at least 25 percent of the frontal dune area. Approved vegetation includes, but is not limited to, American Beach Grass (Fall/Winter planting), Sea Oats (Spring/Summer planting), Seashore Elder (Spring planting), Bitter Panicum (Spring/Summer planting) and Spartina Patens (Spring planting).

### **Section 10.03 Maintenance**

In order for any screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property, or other responsible party, where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance, and free of litter and debris. Any live screening materials such as shrubs and trees which may die must be replaced in compliance with the minimum standards of this Ordinance.

All screening and **landscaping** areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening. Landscaped areas shall be kept in a proper, neat, and orderly appearance and free from refuse and debris. All unhealthy or dead plant material shall be replaced by the property owner or tenant. Failure to maintain the required landscape materials shall constitute a zoning violation and shall be remedied in accordance with the provisions of Article 1, Section 1.12.

### **SECTION 10.04 NONRESIDENTIAL LANDSCAPING REQUIREMENTS**

(A) *General*

A minimum of fifteen (15) trees at least two (2) inches in diameter, measured four and one half (4.5) feet above ground, shall be retained or planted on the lot for each acre of **development**, or shall be prorated accordingly.

(B) *Planting Areas along Boundaries of Right-of-Ways.*

(1) For every fifty (50) feet of **lot frontage** along any **street**, a planting area fifteen (15) feet in depth immediately interior to the road right-of-way shall contain one (1) tree eight (8) feet in height, or three (3) flowering trees five (5) feet in height, and six (6) shrubs eighteen (18) inches in height. Height measurements shall be at time of planting.

(2) Adequate sight angles as required by North Carolina Department of Transportation roadway standards shall be maintained in accordance with Article 2, Section 2.08

Sight Visibility Triangle of the Town of Sunset Beach Unified Development Ordinance (UDO).

(C) *Interior Planting Areas.*

- (1) Interior **landscaping** shall be provided equal to eight percent (8%) of the gross paved area to be used for parking, loading, or vehicular use. **Landscaping** shall be in the form of planting islands, either separate or protruding from the perimeter **landscaping**.
- (2) Each island shall be a minimum of eight (8) feet in width and no less than one hundred (100) square feet overall. Each island shall contain at least one (1) tree eight (8) feet in height and six (6) shrubs eighteen (18) inches in height at planting.
- (3) Consecutive **parking spaces** shall incorporate landscaped peninsulas no more than fifteen (15) spaces apart and at the ends of all parking rows. Peninsulas shall contain one hundred forty-four (144) square feet of area and be at least eight (8) feet in width. When a business establishment is required to provide over three hundred (300) **parking spaces** by the Town's Ordinance, the **Planning Board** may waive the requirement for a **landscaping** island every fifteen (15) consecutive spaces if: 1) the parking area and **landscaping** islands are located to the rear or sides of the building, and 2) the parking area is not visible from any public right-of-way from which the business establishment has ingress and egress. If the **Planning Board** waives the fifteen (15) consecutive space requirements for **landscaping** islands, a **landscaping** island must be installed at a maximum of every thirty (30) consecutive spaces. All other applicable **landscaping**, dimensional and parking requirements shall apply.
- (4) All interior plantings, including islands, shall be curbed or blocked for protection.

- (D) **Buffer Strips.** **Buffer** strips shall be required when a nonresidential use is developed immediately adjacent to an existing residential use or zone. Approved type screening shall also be required to shield outside storage areas, loading/unloading areas, heating and air conditioning units, dumpsters, or trash storage areas. The Planning Board may modify or waive the requirements of a **buffer** where it can be demonstrated by the property owner that the specified screening **buffer** is not needed for the protection of surrounding residential areas because of intervening **streets**, roadways, drainage ways, or other factors such as natural growth of sufficient height and density to serve the same purpose as the required screening **buffer**.

The following means to create a **buffer** shall be used:

- (a) Natural vegetation may be retained to meet this requirement.

(b) One (1) or more of the following means shall be used to supplement the natural vegetation as necessary or to provide an adequate **buffer** where no natural vegetation exists:

1. *Planted **Buffer Strips***. The planted **buffer** strip shall be at least six (6) to eight (8) feet tall and give approximately seventy-five percent (75%) visual opacity within one (1) year of planting. Three (3) rows of planted materials shall be required to a minimum depth of fifteen (15) feet; or

2. *Combination Planting with Privacy Fencing or Wall*. **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 adjustments shall be made by vertical steps not to exceed the maximum height of fences allowed in the applicable zoning district. Both sides of a **fence** or wall must be equal in construction and appearance. The **fence** or wall shall extend along the property line. One (1) row of planted materials shall be required with a fence to a minimum depth of five (5) feet and give approximately seventy-five percent (75%) visual opacity within one (1) year of planting; or

3. *Living Fence*. 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; or

4. *Earthen Berms in Conjunction with Planted Vegetation*. The berm shall be at least four (4) feet high and stabilized with permanent grass or sod within thirty (30) days of construction during normal planting seasons. The use of temporary rye grass will be allowed during winter months but shall be replaced with permanent grassing within thirty (30) days of the beginning of the next normal growing season. Temporary rye grass is not considered as permanent grassing.

The total height of the berm and planted vegetation shall be a minimum of six (6) feet high and provide seventy-five percent

(75%) visual opacity within one (1) year of planting. The slope of the berm shall be no steeper than 3:1. It shall have a level or rounded area on top and be constructed of compacted earth.

(E) *Maintenance and Uses within the **Buffer Strip**.*

- (1) All berms and planted living material shall be adequately maintained and irrigated by the owner of the property on which it is located. Any plantings, which become diseased or die, shall be replaced by the owner on a continuing basis for the **development** in order to maintain seventy-five percent (75%) visual opacity. Storm water retention ponds shall be encouraged to be integrated into the landscape plan.
- (2) No activities shall occur in the **buffer** except for maintenance of the **buffer** and the installation and maintenance of water, sewer, electrical, and other utility systems.

(F) *Critical Root Zone.*

- (1) Sunset Beach recognizes the importance of adequately protecting trees during the construction phase of **developments**. To this end, no excavation or other subsurface disturbances may be undertaken within the **critical root zone** of a tree. Said **critical root zone** shall be marked by means of a barrier **fence**. In cases where, because of utility extension, sidewalk installation, or other site improvements, it is neither prudent nor possible to avoid land disturbance activity in the **critical root zone** area, the developer shall, upon consultation with the **UDO Administrator**, provide the Town with a root disturbance mitigation plan which shall outline a specific course of action for minimizing damage to a tree's root system.
- (2) If space that would otherwise be devoted to parking cannot be so used because of the requirements of Subsection (F)(1) and, as a result, the parking requirements set forth in Article 9, Part II, cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" up to a maximum of fifteen percent (15%) of the required spaces.

**SECTION 10.05 RESIDENTIAL LANDSCAPING REQUIREMENTS**

(A) *Minimum Landscaping Standards*

- (1) The required **landscaping** rate and planting shall be selected and illustrated on the **landscaping** plan, when required, and result in a minimum material point value based upon the following:

Table 10-1. Point-based required landscaping rate

LOT SIZE	REQUIRED POINT VALUE
Island Lots	36

Mainland lots	
<= 9,000 sq. ft.	36
> 9,000 sq. ft.	Additional 3 points per 1,500 additional sq. ft. of lot area. Maximum 72 points

- (2) The total required landscaping rate as outlined in Table 10-1 above may be met by accumulating points according to the following schedule:

Table 10-2. Point-based planting matrix

MATERIAL TYPE	POINT VALUE
3 or More Existing Trees	10
New Large Tree (20 gal min.)	6
New Small to Medium or Ornamental Tree (10-15 gal. min.)	4
New Large Shrub (10 gal min.)	3
New Medium Shrub (5 gallon)	2
New Small Shrub (3 gallon)	1
Sod	3
Irrigation System	3
Utilizing Xeriscaping Methods	3

- (3) In the instance where calculating lot size results in a fraction of the required 1,500 sq. ft. requirement, then the fraction shall be rounded up to the next applicable amount requiring action.
- (4) A minimum of 50% of the required points shall be located in the front yard or area of the lot between the primary facade of the structure at its front entrance and the street. The **UDO Administrator** shall determine front yard area.
- (5) There is no material point value for ground covers other than sod (such as natural ground cover, pine straw and other typical ground cover material). Utilization of xeriscaping methods (drought tolerant plants, waterless landscaping, etc.) may be permitted. Point values for xeriscaping shall be added only when appropriate plant materials are used for that method of landscaping. Privacy fencing has no material point value, but may be used to screen air conditioning units or heat pumps.

**SECTION 10.06 PRESERVATION OF TREES**

- (A) *Purpose.* The purpose of this section is:
- (1) To recognize the importance of mature trees to the quality of life;
  - (2) To conserve energy and retard storm water runoff;
  - (3) To safeguard and enhance property values and to protect public and private investment through protection of significant **existing trees**, and

- (4) To prevent the indiscriminate removal of trees.
  - (5) To protect trees considered valuable to the Town of Sunset Beach as defined in Appendix C, **Heritage Trees**/Plant List.
- (B) *Tree Removal Permit Required.*
- (1) No person, land owner, or corporation directly or indirectly, shall remove any **heritage tree** from private property without first obtaining a tree removal permit as provided in this chapter. The requirement for tree removal permits shall apply within the entire area covered by the Town's **zoning** authority including the areas known as the mainland, beach, and extra territorial jurisdiction except a lot occupied by a **single-family** home.
  - (2) All persons seeking a permit for removal of a **heritage tree** shall make applications to the Building Inspector.
  - (3) The Building Inspector shall issue a tree removal permit if the **applicant** demonstrates one (1) or more of the following situations:
    - (a) For **new construction**, the **applicant** is able to show that essential site improvements cannot be installed without removal of the **heritage tree(s)**. Examples of essential site improvements are the principal/**accessory building(s)**, off-**street** parking, driveway, storm water management facilities;
    - (b) The **heritage tree** is dead, severely diseased, injured, or in danger of falling close to existing or proposed **structures**;
    - (c) The **heritage tree** poses an identifiable threat to individuals or **public safety**, and/or
    - (d) Removal of the **heritage tree** is necessary to enhance or protect the health or condition of adjacent trees.
  - (4) Moving **heritage trees** is encouraged if adequate care is taken to ensure survival of the tree.
  - (5) **Heritage trees** permitted to be removed shall be replaced on a one (1) for one (1) basis with an approved tree. Size and species are to be determined from a standard approved tree list established and published by Town Hall.
  - (6) **Golf courses** may remove trees based on the following standards:
    - (a) Any **golf course** operation may remove up to twenty-five (25) trees per year without justification. A permit will be required for tracking purposes; however, no basis for removal is required for up to twenty-five (25) trees annually.

- (b) For all trees in excess of twenty-five (25), **golf courses** must comply with the Town's standard tree removal policy.
- (c) Any golf course operation may remove any tree not deemed to be a **heritage tree** within 10 ft. of any clearly identified and functioning cart path without justification or permit. **Heritage trees** within 10 ft. of a cart path must meet the standards in 10.05(B) above.

(C) *Requirements for Tree Removal Permit Application.*

- (1) Brief written description of the reason for removal of the tree(s).
- (2) A **site plan**, prepared by a professional surveyor, showing the approximate location of all **heritage trees** or groups of trees, location and **footprint** of any and all existing or proposed buildings and **structures**, and the removal plan must identify the size, species, height, drip line, and health of all **heritage trees** and groups of trees.
- (3) A description of the methods proposed to move a **heritage tree**, if applicable.
- (4) Photographs of trees, or groups of trees, to be removed.
- (5) Any other information that may be required by the Building Inspector to issue the permit.
- (6) The Building Inspector may require a report from an arborist, horticulturalist, or other Town-approved professional regarding the health of a tree to be removed.

**SECTION 10.07 TREE CLEARING PROVISIONS**

- (A) *Purpose.* The Tree Clearing Certificate requirement has been developed to implement the enabling legislation granted to the Town by the North Carolina General Assembly. The purposes of these regulations are to:
- (1) Protect existing trees and shrubs located upon undeveloped sites for use as future buffers and streetscapes to meet development plan requirements;
  - (2) Preserve existing tree and vegetative cover to protect the health, safety, and welfare of the public by preserving the visual and aesthetic qualities of the Town; maintaining property values; controlling erosion; and reducing sediment and other pollutant run-off into streams and waterways in an effort to protect water quality; and
  - (3) To create a process whereby some properties are required to obtain a tree clearing certificate, recognize some properties are exempted from the requirement to obtain a tree clearing certificate prior to the removal of vegetation, and establish penalties for removal of all or substantially all of the required vegetation within required vegetation protection areas.

- (B) *Applicability.* The requirements for obtaining a Tree Clearing Certificate and penalties for non-compliance are applicable to all undeveloped properties which are zoned for residential or nonresidential use located within the Town Limits and/or Extraterritorial Jurisdiction (ETJ). For the purposes of this section, *undeveloped properties* shall include any property within the Town's jurisdiction which is not subject to an approved development plan.
- (C) *Exemptions from Tree Clearing Certificates.* The requirement to obtain a Tree Clearing Certificate shall not apply to the activities listed below.
- (1) Normal forestry activities taking place on property which is taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the North Carolina General Statutes, and provided such activities are accomplished in compliance with Section 10.07(G).
  - (2) Properties with a Town-approved development plan, provided such plan has not expired and that any clearing or vegetation removal is done in strict accordance with the approved development plan.
  - (3) The removal of vegetation by public or private agencies within the lines of any public street right-of-ways, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.
  - (4) The Town-initiated or approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.
  - (5) The removal of vegetation on property located within an approved residential subdivision which is zoned for single family use, and provided such vegetation is not a portion of a required streetscape or other **landscaping** buffer.
- (D) *Required Buffers and Vegetation Protection Areas.* Other than that necessary to gain reasonable access to the property, clearing, and/or removal of trees and other vegetation shall be prohibited in the areas listed below. In situations where one or more buffer zones or vegetation protection areas overlap on the same site, then the more restrictive requirement shall apply.
- (1) A perimeter streetscape zone having a width of fifty (50) feet as measured from all ultimate property boundaries which adjoin existing roadways as depicted in the Sunset Beach Transportation Plan or as required in Section 10.02. For the purposes of this section, the term "ultimate property boundary" of a lot or tract

shall mean the final demarcation line around the perimeter of a lot excluding all areas which must be dedicated to the Town for use as right-of-ways.

- (2) A perimeter buffer zone having a width of sixty-five (65) feet as measured from all property boundaries which adjoin developed property or vacant property with an approved development plan.
- (3) A perimeter buffer zone having a width of thirty-two (32) feet as measured from all property boundaries which adjoin undeveloped property or vacant property without an approved development plan.
- (4) Any other areas necessary for the protection of existing vegetation as indicated within this Ordinance (e.g., riparian buffers).

(E) *Application Requirements.*

- (1) An application for a Tree Clearing Certificate is not required for those activities which can demonstrate an exemption in accordance with the provisions of Section 10.07(C) above.
- (2) An application for a Tree Clearing Certificate may be filed only by all the owners of the property or by such owner's authorized agent.
- (3) An application for a Tree Clearing Certificate shall be filed with the Planning and Inspections Department on a form prescribed by the Department, along with the fee prescribed by the Town Council.
- (4) The application form shall be accompanied by a Vegetation Protection Plan which shall include, at a minimum, the following information:
  - (a) Vicinity map showing the location of the tract at a readable scale.
  - (b) A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (e.g., drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements).
  - (c) General information about the tract, including but not limited to the owner of the tract, the current zoning of the tract, the area of the tract, and the conditional-use zoning conditions, planned unit development master plan requirements, if applicable.
  - (d) The owner, current zoning, and present use of all contiguous properties (including property on opposite side of adjoining streets).

- (e) The location and width of all future/existing buffers and associated vegetation protection areas, including riparian buffers, perimeter buffers and perimeter streetscapes.
    - (f) The proposed limits of timbering activities, including the location and extent of all tree protection fencing as required under of this Ordinance.
  - (5) The **UDO Administrator** may reduce or waive the requirements for a Vegetation Protection Plan in situations where it can be demonstrated that all vegetation removal will take place outside of required vegetation protection areas.
- (F) *Procedure.* Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent must demonstrate exemption from the requirements of this section, or submit the required application materials and applicable fees for a Tree Clearing Certificate.
- (1) Upon receipt of documentation that a property is exempted from obtaining a Tree Clearing Certificate, the **UDO Administrator** shall review all materials and make a determination if a property is exempted from the requirements, or if the requirements apply. In situations where exemption status is claimed based on forestry use, this documentation shall include proof that the property is taxed under the present-use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester. The decision of the **UDO Administrator** may be appealed to the Board of Adjustment.
  - (2) If a property is not exempted from the provisions pertaining to a Tree Clearing Certificate, then such application materials shall include a Vegetation Protection Plan consistent with the requirements listed in Section 10.07(E)(4) above.
  - (3) The Vegetation Protection Plan shall be reviewed by the **UDO Administrator** based upon the provisions of this Ordinance. The **UDO Administrator** may defer the decision on the Vegetation Protection Plan to the Town Council if he or she has concerns about the plans ability to meet the standards of this Ordinance. In the event the **UDO Administrator** disapproves the plan, an appeal may be filed with the Town Council within ten (10) days of disapproval. If an appeal is filed, the Town Council shall decide whether to consider the appeal by majority vote and may affirm, reverse, or modify the **UDO Administrator's** approval.
  - (4) An applicant for a Tree Clearing Certificate shall be notified upon approval of the Vegetation Protection Plan, and shall be free to erect or install any and all barriers necessary to protect existing vegetation within required buffer areas and vegetation protection areas from damage during tree clearing and/or removal activities.

- (5) Once all barriers for the protection of existing vegetation have been installed, a property owner or agent shall request inspection of such barriers for compliance with the requirements of this Ordinance.
  - (6) Upon a passing inspection of vegetation protection barriers, the **UDO Administrator** shall issue a Tree Clearing Certificate, and authorized vegetation clearing and/or removal may commence.
  - (7) An approved Tree Clearing Certificate shall be valid for a period of not more than twelve (12) months from the date of issuance.
- (G) *Non-Compliance.* Failure to comply with the provisions of this section shall constitute a violation of this Ordinance, and shall subject an offending party to a series of actions, including the payment of fines, delay in development plan approval or building permit issuance. Table 10-3 describes the penalties for non-compliance with this Section. An "X" in a particular cell indicates the associated penalty which applies:

Table 10-3. Penalties for Non-Compliance

Type of Violation	Payment of Fines (based on Section 1.12)	Review of all subsequent Site Plans by Town Council	Five year delay in approval of a Building Permit or Site Plan	Requirement to double the landscaping provisions during Site Plan review
Property is exempt from Tree Clearing Certificate requirements, but all or substantially all* vegetation within required buffers and/or vegetation protection areas is removed		<b>X</b>	<b>X</b>	<b>X</b>
Property owner obtains a Tree Clearing Certificate, but removes some of the vegetation within a required buffer and/or tree protection area	<b>X</b>			<b>X</b>
Property is not exempt from Tree Clearing Certificate requirements; but property owner obtains no Certificate, and removes some of the vegetation within a required buffer and/or tree protection area	<b>X</b>	<b>X</b>		<b>X</b>
Property is not exempt from Tree Clearing Certificate requirements; but property owner obtains no certificate, and removes all or substantially all* of the vegetation within a required buffer and/or tree protection area		<b>X</b>	<b>X</b>	<b>X</b>

\* all or substantially all shall mean seventy-five (75) percent or more the existing trees with a caliper of four (4) inches or greater.



## **UDO Amendments Adopted 9/8/15**

1. Article 3 Administrative/Legislative Authority repealed and replaced as follows:

### **REPEALED LANGUAGE AS FOLLOWS:**

PART I. UDO ADMINISTRATOR.....	3-2
Section 3.01 Powers and Duties.....	3-2
PART II. TECHNICAL REVIEW PROCEDURE.....	3-3
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Section 3.20 Quorum and Voting ..... 3-11

**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.
- (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 illegal use of land, buildings or structures; removal of illegal buildings or ~~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) Review and approve applications for **temporary uses**, including special events.
- (6) Coordinate with the Town's Chief Building Inspector 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 Department, **Planning Board**, and Board of Adjustment.
- (9) Perform site inspections.

## **PART II. TECHNICAL REVIEW PROCEDURE**

### **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 shall be used to review all applications for site-specific **development** approval for all **special use permits, preliminary and final plat** approvals and amendments, **development site plans, development** agreements, architectural drawings as required by Article 9, **landscaping** plans, and any application for **development** approval. The Technical Review Procedure shall result in the provision of 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**, 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**

Members of the **Town Council, Planning Board**, and Board of Adjustment must act in the public interest and not to advance their own financial interests. A member of an elected Board,

~~**Planning Board**, or Board of Adjustment 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. If a **Planning Board** or Board of Adjustment makes special use, conditional use, **variance, appeal**, or interpretation decisions, a member must not participate in the discussion or voting if he/she has a personal bias, a predetermined opinion on the matter, a close **family** or business tie to a party, or a financial interest in the outcome. 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.~~

#### ~~**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 NCGS 160A 361 and 160A 362, 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 at least two (2) alternate members. Four (4) members and at least one (1) alternate shall be citizens and residents of the Town, and shall be appointed by the **Town Council**, one (1) member and at least one (1) alternate shall be citizens of the **County** who reside outside the Town but within the Extraterritorial Jurisdiction of the Town as specified by an extraterritorial boundary ordinance adopted pursuant to NCGS 160A 360(b), and shall be appointed by the **County** Board of Commissioners. The members of the **Planning Board** 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. The alternate members shall serve terms of three (3) years.

- (B) Vacancies occurring for reasons other than expiration of term shall be filled as they occur for the unexpired remainder of the term. The alternate member for the Town shall fill a vacancy for a Town member. In like manner, the alternate for the Extraterritorial Jurisdiction shall fill a vacancy for an extraterritorial member.
- (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 or alternate 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** shall adopt rules for transaction of its business and shall keep a record of its members' 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 two (2) members 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 Town 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**. The same shall be true for the alternate member for the Extraterritorial Jurisdiction when an extraterritorial member is absent.

### **SECTION 3.10 POWERS AND DUTIES**

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;
- (H) — To serve as the Board of Adjustment.

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

- (A) — As background for its ~~*CAMA*~~ Land Use 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.
- (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**

- (A) — The ~~*CAMA*~~ Land Use Plan, with the accompanying maps, ~~*plats*~~, charts, and descriptive matter, shall be and show the ~~*Planning Board's*~~ recommendations to the ~~*Town Council*~~ for the ~~*development*~~ of the area, including, among other things, the general location, character, and extent of ~~*streets*~~, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds, and ~~*open spaces*~~, the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, power, gas, sanitation, transportation, communication, and other purposes; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, ~~*open spaces*~~, properties, utilities, or terminals.
- (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**, including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, the wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

### **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** and inform the **Town Council** at its next Council meeting.

### **SECTION 3.15 PUBLIC FACILITIES**

The **Planning Board** shall 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 NCGS, Chapter 160A, Article 19. The word "Board," when used in this Ordinance, shall be construed to mean the same body as the "Town **Planning Board**."~~
- (B) ~~Refer to Section 3.07 for membership, vacancies, and attendance requirements.~~
- (C) ~~The Board of Adjustment shall adopt rules of procedure for the conduct of its affairs and in keeping with the provisions of this Ordinance. Such rules of procedure shall not be effective until approved by the **Town Council**. All meetings held by the Board of Adjustment shall be held in accordance with NCGS Chapter 143A, Article 33B or as may be amended. The Board of Adjustment shall keep minutes of its proceedings suitable for review in Court showing:~~
- ~~(1) The factual evidence presented to the Board of Adjustment by all parties concerned;~~
  - ~~(2) The findings of fact and the reasons for the determinations by the Board of Adjustment; and~~
  - ~~(3) The vote of each member, or if absent or failing to vote, indicating such fact, all of which shall be public record and be filed with the office of the Town Clerk.~~
- (D) ~~A member of the Board of Adjustment 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 conflicts 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 association or relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and the member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.~~

### **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.~~
- (B) ~~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, in passing upon **appeals**, 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) ~~In granting any **variance** permitted herein, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. A **variance**~~

from the requirements of this Ordinance as permitted herein shall not be granted by the Board of Adjustment unless the Board shall make findings of fact that the following requirements have been met by the **applicant** and that the **variance** is the minimum **variance** that will make possible the reasonable use of the land, building, or structure:

- (1) — That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable under the then existing code to other lands, structures, or buildings in the same district;
  - (2) — That such special conditions and circumstances do not result from the actions of the **applicant**;
  - (3) — That a literal interpretation of the provisions of this Ordinance would deprive the **applicant** of rights commonly enjoyed by other properties in the same district under the then existing code;
  - (4) — That granting of the **variance** requested will not confer on the **applicant** any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district under the then existing **zoning** code.
- (D) — 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.
- (E) — 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.
- (F) — In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may 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.

### **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 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. The Chairperson, or any member temporarily acting as

Chairperson, is authorized to administer oaths to any witnesses in any matter coming before the Board of Adjustment.

(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**

~~The concurring vote of four fifths (4/5) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the administrative official charged with the enforcement of an ordinance adopted pursuant to the provisions of this Ordinance, or to decide in favor of the **applicant** any matter upon which it is required to pass under any ordinance, or to grant a **variance** from the provisions of this Ordinance. 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 supermajority if there are no qualified alternates available to take the place of such members.~~

**REPLACED WITH THE FOLLOWING:**

PART I. UDO ADMINISTRATOR .....	3-2
Section 3.01 Powers and Duties.....	3-2
PART II. TECHNICAL REVIEW PROCEDURE .....	3-3
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**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.
- (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 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.

## **PART II. TECHNICAL REVIEW PROCEDURE**

### **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, 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.

(B) 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) 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.

#### **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 and 160A-362, 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(b), and shall be appointed by the **County** Board of Commissioners. Beginning June 1<sup>st</sup>, 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 1<sup>st</sup>, 2016.

### **SECTION 3.10 POWERS AND DUTIES**

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 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.
- (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**

- (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**

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.
- (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(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.
- (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 33C 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.

### **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 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**

- (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) 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.



2. Article 4 Legislative Procedures Repealed and Replaced as follows:

~~Section 4.01— Amendment/Rezoning Procedures ..... 4-2~~

~~Section 4.02— Vested Rights Provision ..... 4-7~~

~~Section 4.03— Temporary Moratoria Procedures..... 4-10~~

~~Section 4.04— Appeals, Variances, and Interpretations ..... 4-12~~

~~Section 4.05— Special Use Permits ..... 4-18~~

~~Section 4.06— Rehearings ..... 4-23~~

~~Section 4.07— Appeals of Quasi-Judicial Decisions..... 4-23~~

**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.

(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.~~

(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 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**.~~

(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 property owners on the **Brunswick County** tax abstracts. 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) 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, but 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.~~

~~(c) — The **Town Council** shall adopt a statement of reasonableness for all small scale rezonings as defined by the State statute.~~

~~(3) — *Qualified Protests.*~~

~~(a) — In case of a protest against a **zoning** map amendment, that amendment shall not become effective except by favorable vote of three fourths (3/4) of all the members of the **Town Council**. For the purposes of this division, vacant positions on the Council and members who are excused from voting shall not be considered "members of the Council" for calculation of the requisite supermajority. NOTE: Protest petitions do not apply to text amendments.~~

~~(b) — To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change; or (ii) five percent (5%) of a one hundred (100) foot side **buffer** extending along the entire boundary of each discrete or separate area proposed to be rezoned. A **street** right of way shall not be considered in computing the one hundred (100) foot **buffer** area as long as that **street** right of way is one hundred (100) feet wide or less. When less than an entire parcel of land is subject to the proposed **zoning** map~~

amendment, the one hundred (100) foot **buffer** shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the **County** tax listing to determine the "owners" of potentially qualifying areas.

(c) ~~The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential **development**, or increase the total approved size of nonresidential **development**, or reduce the size of any **buffers** or screening approved for the special use district, conditional use district, or conditional district.~~

(d) ~~No protest against any change in or amendment to a **Zoning** Ordinance or **zoning** map shall be valid or effective for the purposes of NCGS 160A-385 unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two (2) normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Town. Such form shall prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed **zoning** amendment. Only those protest petitions that meet the qualifying standards set forth in NCGS 160A-385 at the time of the vote on the **zoning** amendment shall trigger the supermajority voting requirement.~~

(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**

(A) ~~Purpose.~~ The purpose of this section is to implement the provisions of NCGS 160A-385.1 pursuant to which a statutory ~~zoning vested right~~ is established upon the approval of a site specific ~~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 **Town Council** or Board of Adjustment, as applicable, of a site specific **development** plan, following notice and public hearing as provided for by law.~~

(2) ~~The approving authority may approve a site specific **development** 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** 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** 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 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** 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** 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** 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 **Town Council** or Board of Adjustment following notice and a public hearing as provided in NCGS 160A-364 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** 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** plan shall contain the following notation: "Approval of this plan establishes a **zoning vested right** under NCGS 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** plan, nothing in this section shall exempt the plan from subsequent reviews and 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** 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** plan is approved.~~
- (3) ~~Upon the issuance of a building permit, the expiration provisions of NCGS 160A-418 and the revocation provisions of NCGS 160A-422 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 a public hearing, that natural or man-made hazards on or in the immediate vicinity of 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** 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** 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** 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 160A-385.1 or NCGS 153A-344.1.~~

(2) ~~A statement that declares that no **zoning-vested right** has been established under NCGS 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 160A-385.1.

#### **SECTION 4.03 TEMPORARY MORATORIA PROCEDURES**

North Carolina General Statute 160A-381(e) explicitly recognizes the authority of cities/towns to adopt temporary moratoria. 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. 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.
- (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** 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 Building 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.

(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) — All petitions and/or progress relating to the project for which the ~~appeal~~ was filed shall cease.

(b) — 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 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 granted by the Board of Adjustment if it concludes that, by granting the ~~variance~~, the following findings are supported by the Board of Adjustment decision: (1) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance; (2) that the ~~variance~~ is in harmony with the general purpose and intent of the Ordinance and

preserves its spirit; and (3) that in the granting of the **variance**, the public safety and welfare have been assured and substantial justice has been done. It may reach these conclusions if it finds that:

(a) — If the **applicant** complies strictly with the provisions of the Ordinance, he/she can make no reasonable use of his/her property.

(b) — The hardship of which the **applicant** complains is one suffered by the **applicant** rather than by neighbors or the general public.

(c) — The hardship is unique, or nearly so, rather than one shared by many surrounding properties.

(d) — The hardship is not the result of the **applicant's** own actions.

(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) — 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. 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. Where uncertainties continue to exist after application of the above rules, **appeal** 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.
- (D) — ~~*Requests to be Heard Expeditiously.*~~ 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) — ~~*Hearing Required on Appeals, Variances and Interpretations:*~~
- (1) — Before making a decision on an **appeal** or an application for a **variance** or interpretation, 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.
- (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 a hearing scheduled.
- (F) — ~~*Notice of Hearing.*~~ The **UDO Administrator** shall give notice of any hearing required by Section 4.04(E) as follows:
- (1) — 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**.*

- (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 four fifths (4/5) vote necessary for adoption (see Section 3.20), then a motion to uphold the decision **appealed** from shall be in order. This motion will be 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).
- (2) — **Variance.** The Board of Adjustment must 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 each 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.~~
- ~~(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.*~~

~~(1) — 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.~~

~~(2) — In addition to a statement of the Board of Adjustment's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board of Adjustment's findings and conclusion, as well as supporting reasons or facts, whenever this Ordinance requires the same as a prerequisite to taking action.~~

#### **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). Each application shall contain or be accompanied by the legal description, maps, plans, and other information as required by the Board of Adjustment so as to completely describe the proposed use and existing conditions and shall include the following:
    - (a) ~~Location of all structures within fifty (50) feet of the property and location and depth, if known, of any existing utility lines in the property or along any adjacent **street**;~~
    - (b) ~~Location of property boundaries and location of any **casements** for utility lines of passage which cross or occupy any portion of the property for proposed lines;~~
    - (c) ~~Detailed construction plans shall be submitted prior to issuance of a building permit; and~~
    - (d) ~~A list of names and addresses of all **adjacent property** owners along with one (1) set of envelopes stamped and with typed addresses to each person on the list. These addressed envelopes and the list shall be submitted at least ten (10) working days prior to the public hearing and shall be used to mail the required public notice to each **adjacent property** owner.~~~~
  - (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**, shall 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 a four-fifths (4/5) 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 supermajority 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 a public 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 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.~~
- (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.~~
- (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:*~~

(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 4.6 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 4.7 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.

**REPLACED WITH THE FOLLOWING:**

Section 4.01	Amendment/Rezoning Procedures .....	4-2
Section 4.02	Vested Rights Provision .....	4-6
Section 4.03	Temporary Moratoria Procedures.....	4-9
Section 4.04	Appeals, Variances, and Interpretations .....	4-11
Section 4.05	Special Use Permits.....	4-17
Section 4.06	Rehearings.....	4-21
Section 4.07	Appeals of Quasi-Judicial Decisions.....	4-2

**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.
- (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.

(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 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**.

(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 property owners on the **Brunswick County** tax abstracts. 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) 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, but 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.
  - (c) The **Town Council** shall adopt a statement of reasonableness for all small scale rezonings as defined by the North Carolina General Statutes.
- (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, the clerk shall provide only the names 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**

- (A) *Purpose.* The purpose of this section is to implement the provisions of NCGS 160A-385.1 pursuant to which a statutory **zoning vested right** is established upon the approval of a site specific **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 **development** plan, following notice and public hearing as provided for by law.
  - (2) The approving authority may approve a site specific **development** 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** 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** 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 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** 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** 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** 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 hearing as provided in NCGS 160A-364 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** 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** plan shall contain the following notation: "Approval of this plan establishes a **zoning vested right** under NCGS 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** plan, nothing in this section shall exempt the plan from subsequent reviews and 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** 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** plan is approved.
  - (3) Upon the issuance of a building permit, the expiration provisions of NCGS 160A-418 and the revocation provisions of NCGS 160A-422 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 a public hearing, that natural or man-made hazards on or in the immediate vicinity of 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** 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** 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** 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 160A-385.1 or NCGS 153A-344.1.
  - (2) A statement that declares that no **zoning vested right** has been established under NCGS 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 160A-385.1.

#### **SECTION 4.03 TEMPORARY MORATORIA PROCEDURES**

North Carolina General Statute 160A-381(e) explicitly recognizes the authority of cities/towns to adopt temporary moratoria. 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. 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.
- (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*** 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.
- (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) All petitions and/or progress relating to the project for which the ***appeal*** was filed shall cease.
  - (b) 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 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.

(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. 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. Where uncertainties continue to exist after application of the above rules, **appeal** 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.

(D) *Requests to be Heard Expeditiously.* 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) *Hearing Required on **Appeals, Variances and Interpretations.***

- (1) Before making a decision on an **appeal** or an application for a **variance** or interpretation, 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.
- (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 a hearing scheduled.

(F) *Notice of Hearing.* The **UDO Administrator** shall give notice of any hearing required by Section 4.04(E) as follows:

- (1) 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**.*

- (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.
- (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.

**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).
- (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 a public 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 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.
- (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.
  - (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.*
  - (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.



#### **UDO Amendments Adopted 02/01/16**

1. Article 2 amended to add Section 2.18 Filling, Grading and Excavation as follows:

#### **SECTION 2.18 Filling, Grading, and Excavation**

- (A) The amount of fill added to a lot will not be greater than one foot above the crown of the road except fill that is necessary to meet Health Department or State Storm water requirements for a permit. The fill will also be limited by the height of the adjacent side lot that has been developed and cannot exceed the developed lot in height by greater than one foot. In the case of two lots back to back or adjacent, any differential in fill greater than one foot at the common line of the two lots, the higher lot must construct a wall, bulkhead, or a satisfactory containment device to prevent the fill and surface water from running on the lower lot.
- (B) In lowering the level of a lot by grading or removing sand, the higher limit will not exceed one foot above the crown of the road when finished and stabilized. Sand will not be taken from the island; and sand used to fill low lots will be stabilized to prevent wind erosion.

(C) A silt fence must be erected around that portion of a lot being disturbed that causes erosion onto adjacent property and street right of ways. Exception: Only the portion of a lot adjoining golf course greens or fairways or a portion of a lot for construction access is exempt.

(D) No lot, parcel or tract of land may be disturbed by grading, filling, excavation, and removal of trees or removal of stumps without obtaining a Fill and Grade permit.



2. Article 9 Part III repealed and replaced as follows:

**~~PART III. OUTDOOR LIGHTING~~**

**~~SECTION 9.15 PURPOSE AND INTENT~~**

~~Nonresidential and **multi-family** buildings and projects, including **outparcels**, shall be designed to provide safe, convenient, and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site. The lighting and lighting fixtures shall be integrated and designed so as to enhance the visual impact of the project on the community and/or should be designed to blend into the surrounding landscape. Lighting design and installation shall ensure that lighting accomplishes on-site lighting needs without intrusion on adjoining properties.~~

**~~SECTION 9.16 APPLICABILITY~~**

~~The requirements of this section shall apply to:~~

- ~~(A) All nonresidential or **multi-family developments**.~~
- ~~(B) All residential **subdivision developments**.~~
- ~~(C) Modification of an existing lighted area where the lamp color will change or where the number of light fixtures or foot candles (fc) are increased.~~
- ~~(D) Expansion of areas that are increasing in size and in doing so will exceed the illumination levels in Section 9.20.~~

**~~SECTION 9.17 EXEMPT~~**

- ~~(A) The following activities are exempt from the requirements of this section.
  - ~~(1) Outdoor lights used for a temporary event; permitted through a **Temporary Use** Permit.~~~~

- (2) ~~Holiday lights.~~
  - (3) ~~Outdoor lights used exclusively for recreational activities, concerts, plays, or other outdoor events that are open to the public, provided that the event or function meets all other applicable Ordinance requirements. Such lighting shall be located at least fifty (50) feet from any adjoining residential district or use.~~
  - (4) ~~Fixtures may be replaced with like fixtures that meet requirements of Section 9.19(A).~~
  - (5) ~~Maintenance and repairs (excluding replacement of fixtures, modifications, or expansions as defined in Section 9.16(C) and (D)) with like parts such as lamps, photo controls, lens, and ballasts may be performed.~~
  - (6) ~~Nonconforming Outdoor Lighting damaged by fire or other causes consistent with the following requirements:~~
    - (a) ~~In the event of damage by fire or other causes to an extent exceeding fifty percent (50%) of its value, reconstruction of a nonconforming **structure** shall be permitted only in compliance with the dimensional provisions of this Ordinance.~~
    - (b) ~~In the event of damage by fire or other causes to an extent below fifty percent (50%) of its value, reconstruction of a nonconforming **structure** shall be permitted provided it is in the same location and up to the same dimensions as originally existed.~~
- (B) ~~Outdoor lighting exempt from the section shall only be illuminated while the activity takes place and during high traffic periods immediately before and after the event.~~

### **SECTION 9.18 LIGHTING PLAN**

~~A site lighting plan shall be required as part of the application review for all areas proposed for illumination that exceed forty thousand (40,000) square feet in area. Projects with multiple areas proposed to be illuminated (such as separate **parking lots**) shall submit a site lighting plan if the sum of the multiple areas exceeds forty thousand (40,000) square feet.~~

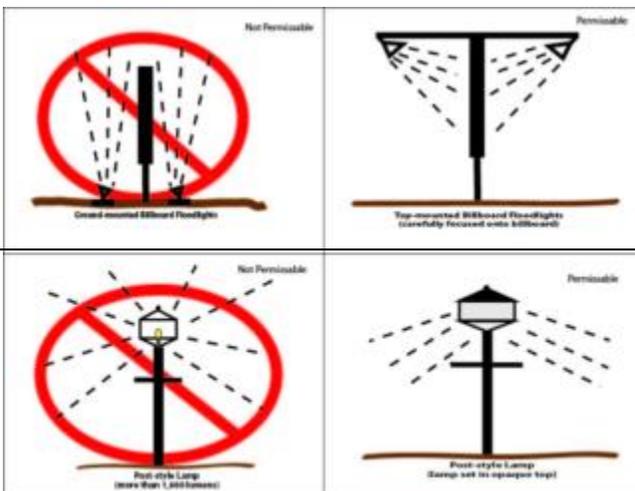
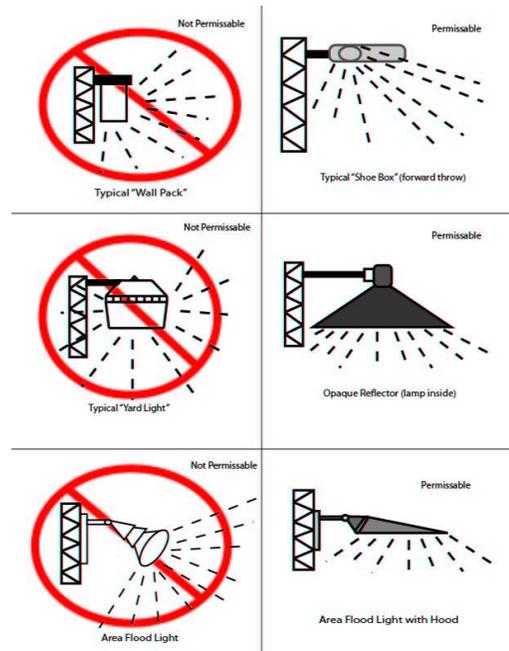
### **SECTION 9.19 SITE LIGHTING DESIGN REQUIREMENTS**

~~Lighting shall be used to provide safety while accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This can be accomplished through style, material, or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:~~

(A) ~~Fixture (Luminaire).~~

(1) ~~The light source shall be completely concealed behind an opaque surface and recessed within an opaque housing and shall not be visible from any street right-of-way or adjoining properties. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky.~~

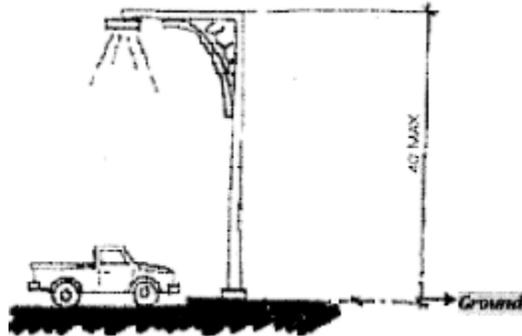
(2) Under **canopy** lighting fixtures should be completely recessed within the **canopy**.



(B) ~~Fixture Height.~~

(1) — Lighting fixtures may not exceed forty (40) feet in height and illumination levels shall comply with Section 9.20(B).

(2) — The ~~UDO Administrator~~ may allow fixtures above this height to provide internal lighting for stadiums, arenas, and similar facilities.



(C) — ~~Light Source (Lamp).~~

(1) — Incandescent, florescent, metal halide, or color corrected high pressure sodium are preferred. Light Emitting Diodes (LEDs) and fiber optics may be used provided the color emitted is similar to the preferred types. Non color corrected high pressure sodium lamps are prohibited.

(2) — The same light source type must be used for the same or similar types of lighting on any one (1) site throughout any **development**.

(D) — ~~Mounting.~~ Fixtures shall be mounted in such a manner that the cone of light is contained on-site and maximum illumination levels off site do not exceed those found in Section 9.20(B) and not conflict with excessive illumination requirements found in Section 9.21.

(E) — ~~Limit Lighting to Periods of Activity.~~ The use of sensor technologies, timers, or other means to activate lighting during times when it will be needed may be required by the ~~UDO Administrator~~ to conserve energy, provide safety, and promote compatibility between different land uses.

**SECTION 9.20 ILLUMINATION LEVELS**

(A) — To ensure uniform light distribution, all site lighting shall be designed so that the level of illumination as measured in foot-candles (fc) at any one point meets the standards in the table below with minimum and maximum levels measured on the pavement within the lighted area and average level (the overall generalized ambient light level) measured as a not to exceed value calculated using only the area of the site intended to receive illumination.

<b>LIGHT LEVEL (foot-candles)</b>			
<b>Type of Lighting</b>	<b>Minimum</b>	<b>Average</b>	<b>Maximum</b>
Architectural Lighting	0.0	1.0 <del>B</del> 1.5	5.0

<del><b>Canopy</b></del> Area Lighting	2.0	<del>10.0 - 20.0</del>	20.0
<del><b>Multi-family Parking Lot</b></del>	0.2	<del>1.0 - 1.5</del>	8.0
Nonresidential and <del><b>multi-family</b></del> entrances	1.0	2.5 - 5.0	15.0
Nonresidential <del><b>parking lot</b></del>	0.2	<del>1.5 - 2.0</del>	10.0
Storage area (security lighting)	0.2	1.0 - 1.5	10.0
Vehicles sales and display	0.2	3.0	15.0
Walkways, landscape, or decorative lighting	0.2	<del>1 - 1.5</del>	5.0

(B) ~~All outdoor lighting shall be designed and located such that maximum illumination measured in foot-candles complies with the following table:~~

<del><b>MAXIMUM ILLUMINATION LEVELS (foot-candles)</b></del>	
<del><b>Lighting Measured at:</b></del>	<del><b>Maximum Illumination (foot-candles)</b></del>
<del>Street</del>	<del>5.0</del>
<del>Property Line Next to Residential Use or Residential District</del>	<del>0.2</del>
<del>Property Line Next to Commercial Use or Commercial District</del>	<del>0.5</del>

**SECTION 9.21 EXCESSIVE ILLUMINATION**

- (A) — Lighting within any ~~lot~~ that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited. Lighting unnecessarily illuminates another ~~lot~~ if it exceeds the requirements of this section.
- (B) — Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.
- (C) — Fixtures used to accent architectural features, landscaping, or art shall be located, aimed, or shielded to minimize light spill into the night sky.
- (D) — Blinking or flashing lights shall be prohibited unless the lights are required as a safety feature (e.g., beacons on ~~towers~~) or shall be permitted as part of a ~~sign~~ in accordance with Article 11, *Signs*.

### **SECTION 9.22 SEA TURTLE PROTECTION**

- (A) — *Purpose.* The purpose of this section is to protect the threatened and endangered sea turtles that nest along the beaches of the Town by safeguarding egg-laying females and hatchlings from sources of artificial light that deter nesting and cause disorientation and subsequent death. To the maximum extent feasible, and consistent with requirements for *public safety*, it is the policy of the Town that no artificial light shall directly or indirectly illuminate the Town's ocean beach. To comply with this policy, outdoor lighting installed or upgraded within three hundred (300) feet of the primary dune after the effective date of this Ordinance shall meet the following requirements:
  - (1) — Streetlights shall utilize cutoff fixtures and the fixtures shall be mounted no more than twenty five (25) feet above grade.
  - (2) — Streetlight fixtures shall be shielded and/or utilize lenses to create a light pattern that contains light landward of the primary dune.
  - (3) — Where it is impractical to contain light from streetlight fixtures on the landward side of the primary dune, colored lenses that modify light so that it is not disruptive to sea turtle hatchlings shall be employed.
  - (4) — Pole-mounted light fixtures installed on private property shall be cutoff fixtures and shall be shielded in such a manner as to contain light on the landward side of the primary dune. The fixture mounting height may be no more than twenty (20) feet above grade at the base of the pole.
  - (5) — Wall-mounted light fixtures shall be fitted with shields and hoods to contain light on the landward side of the primary dune.

~~(6) — Floodlights installed for security purposes and operated by motion sensors are permitted. To the maximum extent feasible, these fixtures shall be mounted and aimed in a manner to contain light on the landward side of the primary dune.~~

~~(7) — Where possible, the source(s) of light within the three hundred (300) foot zone must not be visible from the seaward side of the primary dune.~~

~~(B) — *Implementation; Compliance.* Building, electrical, and/or **sign** permits will state that the **applicant** must comply with the requirements of this section, and the requirements of this section must be met prior to the final inspection on the permit.~~

### ~~**SECTION 9.23 NONCONFORMING LIGHTING**~~

~~Lighting fixtures existing as of December 3, 2012, may remain, and shall be considered nonconforming **structures**. Modifications, replacement, or expansions shall conform to the standards of this Ordinance.~~

### ~~**SECTION 9.24 PROHIBITED LIGHTING**~~

~~The following types of outdoor lighting are specifically prohibited:~~

~~(A) — Lighting that could be confused for a traffic control device.~~

~~(B) — Lighting that is oriented upward, except as otherwise provided for in this Ordinance.~~

~~(C) — Searchlights, beacons, and laser source light fixtures.~~

~~(D) — Lights that blink, flash, move, revolve, flicker, change in intensity, or change color.~~

~~(E) — Any lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting.~~

~~(F) — Lighting inside of an awning when the awning material is translucent.~~

## ~~**REPLACED WITH THE FOLLOWING:**~~

### ~~**PART III. OUTDOOR LIGHTING**~~

#### ~~**SECTION 9.15 PURPOSE AND INTENT**~~

~~The outdoor lighting standards of this section are intended to promote “dark sky” lighting principles and protect the public health and general welfare by controlling the adverse impacts of glare and light trespass associated with poorly shielded or inappropriately directed lighting fixtures.~~

### **SECTION 9.16 APPLICABILITY**

Unless otherwise expressly exempted, the regulations of this section apply to all outdoor lighting installed after February 1, 2016.

### **SECTION 9.17 EXEMPT**

- (A) The following activities are exempt from the requirements of this section.
- (1) Outdoor lights used for a temporary event; permitted through the Town.
  - (2) Holiday lights.
  - (3) Residential security lights controlled and activated by motion sensor devices for a duration of 15 minutes or less;
  - (4) Lighting of official government flags;
  - (5) Lights used as part of a safety feature (e.g. warning lights on radio, communication and navigation towers)
  - (6) Outdoor lights used exclusively for recreational activities, concerts, plays, or other outdoor events that are open to the public, provided that the event or function meets all other applicable Ordinance requirements. Such lighting shall be located at least fifty (50) feet from any adjoining residential district or use and shall terminate lighting between 11:00 PM and 7:00AM.
  - (7) Outdoor light fixtures producing light directly by the combustion of fossil fuels, such as, kerosene lanterns or gas lamps;
- (B) Outdoor lighting for permitted temporary or outdoor events listed in this section shall only be illuminated while the activity takes place and during high traffic periods immediately before and after the event.

### **SECTION 9.18 LIGHTING PLAN**

All major site plans, as specified in Article 5, Section 5.03, must indicate, at a minimum, fixture type, pole height and any fixture shielding. In addition, a note must be included on the site plan indicating that the proposed development shall comply with the outdoor lighting standards of this ordinance, including compliance with the light trespass requirement in Section 9.21.

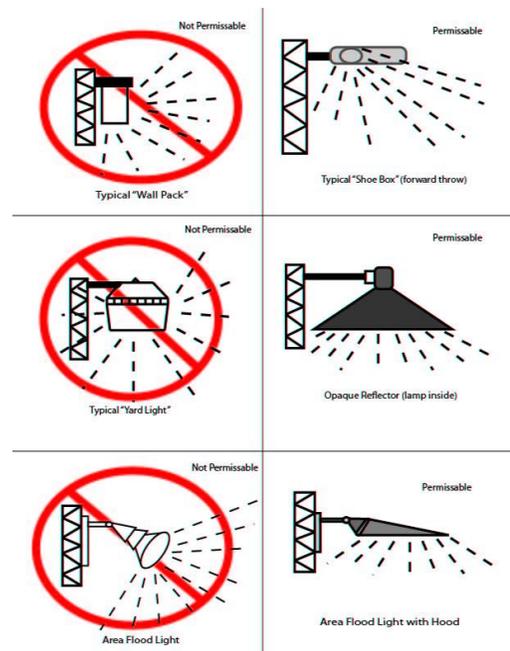
### **SECTION 9.19 SITE LIGHTING DESIGN REQUIREMENTS**

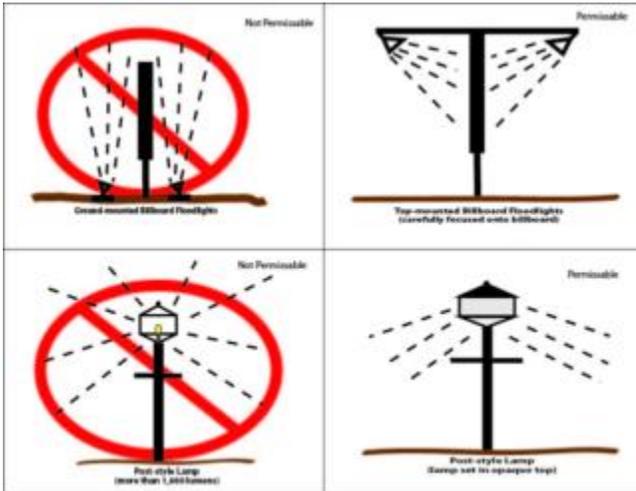
Lighting shall be used to provide safety while accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that

complements the design of the project. This can be accomplished through style, material, or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

(A) *Fixture (Luminaire).*

- (1) The light source shall be completely concealed behind an opaque surface and recessed within an opaque housing and shall not be visible from any street right-of-way or adjoining properties. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky.
- (2) Under **canopy** lighting fixtures should be completely recessed within the **canopy**.

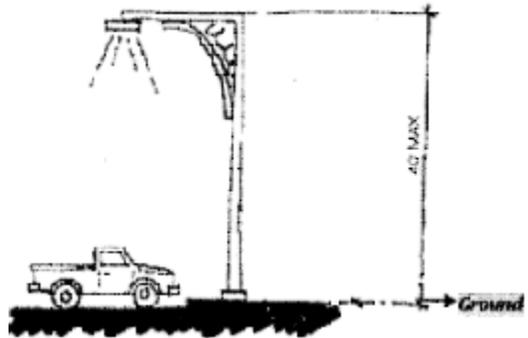




(B) *Fixture Height.*

(1) Mainland lighting fixtures for nonresidential uses may not exceed forty (40) feet in height. Lighting fixtures for residential uses shall not exceed twenty five (25) feet in height. Illumination levels shall comply with Section 9.20.

(2) All Island lighting fixtures may not exceed twenty five (25) feet in height or twenty (20) feet in height if within 300ft. of a **primary frontal dune**. Illumination levels shall comply with Section 9.20.



(3) The **UDO Administrator** may allow fixtures above these heights to provide internal lighting for stadiums, arenas, and similar facilities.

(C) *Light Source (Lamp).*

(1) Incandescent, florescent, or metal halide are preferred. Light Emitting Diodes (LEDs) and fiber optics may be used provided the color emitted is between 4,000 and 5,000 Kelvin (white light). High pressure sodium lamps are prohibited.

(2) The same light source type must be used for the same or similar types of lighting on any one (1) site throughout any **development**.

- (D) *Mounting.* Fixtures shall be mounted in such a manner that the cone of light is contained on-site and maximum illumination levels off-site do not exceed those found in Section 9.20(B) and not conflict with light trespass requirements found in Section 9.21.
- (E) *Limit Lighting to Periods of Activity.* The use of sensor technologies, timers, or other means to activate lighting during times when it will be needed may be required by the **UDO Administrator** to conserve energy, provide safety, and promote compatibility between different land uses.

**SECTION 9.20 ILLUMINATION LEVELS**

- (A) To ensure uniform light distribution, all site lighting shall be designed so that the level of illumination as measured in foot-candles (fc) at any one point meets the standards in the table below with minimum and maximum levels measured on the pavement within the lighted area and average level (the overall generalized ambient light level) measured as a not-to-exceed value calculated using only the area of the site intended to receive illumination.

<b>LIGHT LEVEL (foot-candles)</b>			
<b>Type of Lighting</b>	<b>Minimum</b>	<b>Average</b>	<b>Maximum</b>
Architectural Lighting	0.0	1.0 - 1.5	5.0
<b>Canopy</b> Area Lighting	2.0	10.0 - 20.0	20.0
<b>Multi-family Parking Lot</b>	0.5	1.0 - 1.5	8.0
Nonresidential and <b>multi-family</b> entrances	1.0	2.5 - 5.0	15.0
Nonresidential <b>parking lot</b>	0.5	1.5 - 2.0	10.0
Storage area (security lighting)	0.5	1.0 - 1.5	10.0
Vehicles sales and display	0.5	3.0	15.0
Walkways, landscape, or decorative lighting	0.5	1 - 1.5	5.0

- (B) All outdoor lighting shall be designed and located such that maximum illumination measured in foot-candles complies with the following table:

<b>MAXIMUM ILLUMINATION LEVELS (foot-candles)</b>	
<b>Lighting Measured at:</b>	<b>Maximum Illumination (foot-candles)</b>
Street	5.0
Property Line of Nonresidential Uses abutting Residential Use or Residential District	0.5
Property Line of Nonresidential Use abutting Non Residential Use or Non-Residential District	Conformance with 9.20(A)

### **SECTION 9.21 LIGHT TRESPASS**

All outdoor lighting must be located, angled, shielded or limited in intensity so as to cast no direct light or glare at any abutting residentially-used property, on adjacent streets, or spill into the night sky.

### **SECTION 9.22 SEA TURTLE PROTECTION**

- (A) *Purpose.* The purpose of this section is to protect the threatened and endangered sea turtles that nest along the beaches of the Town by safeguarding egg-laying females and hatchlings from sources of artificial light that deter nesting and cause disorientation and subsequent death. To the maximum extent feasible, and consistent with requirements for **public safety**, it is the policy of the Town that no artificial light shall directly or indirectly illuminate the Town's ocean beach. To comply with this policy, outdoor lighting installed or upgraded within three hundred (300) feet of the **primary frontal dune** after the effective date of this Ordinance shall meet the following additional requirements:
- (1) Streetlight fixtures shall be shielded and/or utilize lenses to create a light pattern that contains light landward of the **primary frontal dune**.

- (2) Where it is impractical to contain light from streetlight fixtures on the landward side of the ***primary frontal dune***, colored lenses that modify light so that it is not disruptive to sea turtle hatchlings shall be employed.
  - (3) Pole-mounted light fixtures installed on private property shall be shielded in such a manner as to contain light on the landward side of the ***primary frontal dune***.
  - (4) Wall-mounted light fixtures shall be fitted with shields and hoods to contain light on the landward side of the ***primary frontal dune***.
  - (5) Residential floodlights, as specified in 9.17(A)(3), installed for security purposes and operated by motion sensors are permitted. These fixtures shall be mounted and aimed in a manner to contain light on the landward side of the ***primary frontal dune***.
  - (6) Where possible, the source(s) of light within the three hundred (300) foot zone must not be visible from the seaward side of the ***primary frontal dune***.
- (B) *Implementation; Compliance.* Building, electrical, and/or ***sign*** permits will state that the ***applicant*** must comply with the requirements of this section, and the requirements of this section must be met prior to the final inspection on the permit.

### **SECTION 9.23 NONCONFORMING LIGHTING**

Lighting fixtures existing as of February 1, 2016, may remain, and shall be considered nonconforming ***structures***. Modifications, replacement, or expansions shall conform to the standards of this Ordinance, except for the following:

- (1) Fixtures may be replaced with like fixtures that meet requirements of Section 9.19(A).
- (2) Maintenance and repairs, excluding replacement of fixtures, modifications, or expansions with like parts such as lamps, photo controls, lens, and ballasts, may be performed.

### **SECTION 9.24 PROHIBITED LIGHTING**

The following types of outdoor lighting are specifically prohibited:

- (A) Lighting that could be confused for a traffic control device.
- (B) Lighting that is oriented upward, except as otherwise provided for in this Ordinance.
- (C) Searchlights, beacons, and laser source light fixtures are expressly prohibited.

- (D) Lights that blink, flash, move, revolve, flicker, change in intensity, or change color, except lights listed as exempt under 9.17(A).
- (E) Any lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting.
- (F) Lighting inside of an awning when the awning material is translucent.
- (G) Area floodlights, not including residential security lighting on timers or motion detection.



3. Article 6 Section 6.04 were amended to add Hot Tubs as a Permitted Uses with Supplemental Regulations and to add definitions as follows:

Uses	MR1	MR2	MR2-A	MR3	MB1	MB2	BR1	BR2	BB1	MH1	MH2	RI1	CR1	AF1	MUD	Supplemental Regulations
<i>Hot tubs</i>	PS	PS	PS	PS	PS		PS			Section 7.14						



4. Article 7 Section 7.14 was amended as follows:

**REPEALED LANGUAGE AS FOLLOWS:**

- (A) ~~A **swimming pool** may be constructed as an **accessory use** 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. Temporary fencing of all excavation sites during construction of a **swimming pool** facility may be required by the Building Inspector.~~
- (C) ~~All outdoor residential **swimming pools** shall be enclosed by a **fence** or other equivalent type barrier designed so as to minimize the possibility of unauthorized or unwary persons from entering the pool area. Entrances through the barrier shall be provided with self-closing gates having simple positive self-latching closure mechanisms with hardware provided for padlocking. The barrier shall not be less than forty eight (48) inches in height above the adjacent ground surface. All residential pool enclosures shall be completely installed within thirty (30) days of the pool completion.~~

- (D) ~~Contractors must show proof of liability insurance prior to the issuance of a building permit.~~
- (E) ~~All outdoor residential **swimming pools** shall meet the requirements of the International Building Code, Appendix G, as amended from time to time.~~

**REPLACED WITH THE FOLLOWING:**

- (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) 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 tub is filled with water.

5. Appendix A Definitions Amended to add the following:

**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”).

**UDO Amendment Adopted 04/19/16**

1. Article 2 General Regulations amended to add Section 2.19 Alteration of Sand Dunes or Ocean Front Vegetation as follows:

**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.

**UDO Amendment Adopted 05/02/16**

1. Article 11 Signs Section 11.03 (A) K amended to repeal and replace as follows:

**REPEALED LANGUAGE AS FOLLOWS:**

- ~~K. Temporary non illuminated signs publicizing a specific event of the town, county, or other non profit entity shall not exceed 32 square feet per sign.
  - 1. No more than two signs publicizing the event shall be permitted on the site of the specified activity. The distance between said signs shall not be less than 100 feet.
  
  - 2. No more than two signs publicizing the same event shall be located off the site of the activity advertised and may be located in any business district, upon approval of the land owner, or may be located on property owned and/or~~

~~controlled by the sponsoring agency. All signs as described above will be allowed only during a time period of 10 days preceding the time and date of the event and must be removed no later than 48 hours following the conclusion of the event. No sign shall be placed in the public right-of-way.~~

~~3. Signs may not be installed on vegetation or by any method that is destructive to private property. Method of installation is subject to approval by the UDO Administrator.~~

**REPLACED WITH THE FOLLOWING:**

K. Temporary signs in residential districts shall be governed according to Section 11.08 (A) (11); (12)

2. Article 11 Section 11.08 Exemptions repealed and replaced as follows:

**REPEALED LANGUAGE AS FOLLOWS:**

~~(11) — *Special Event Signs.*~~

~~(a) — Temporary non-**illuminated signs** not exceeding twenty five (25) square feet in area publicizing a specific event of general public interest including, but not limited to festivals, public meetings, community fund raising events, auctions, grand openings, **yard** sales/garage sales, or events sponsored by religious, charitable, or public service groups. No more than two (2) off-site directional **yard** sales/garage sales **signs** may be permitted, but only during the hours the sale is actively being conducted. No **signs** may be placed in the public right-of-way. No more than two (2) **signs** publicizing the same event may be located off site, and will be allowed only during a time period of three (3) weeks preceding the time and date of the event. All **signs** must be removed no later than one (1) week following the conclusion of the event.~~

~~(b) — An exception to the allowed time periods is one (1) permanent **on-premises sign** publicizing an annual event that is beneficial to the community and has been approved by the **UDO Administrator.**~~

**REPLACED WITH THE FOLLOWING:**

**(11) Temporary Event Signs**

Temporary events are defined as town-permitted, short-term events focused around activities conducted upon a specific business site or individual property that do not involve use of public facilities, staff, or the use or closing of streets. Examples of such activities include, but are not limited to, business grand openings, yard sales, fund raising

events, auctions, or events sponsored by religious, charitable, or public services groups. Signage for such events are subject to the following standards.

- a) One temporary non-illuminated sign not exceeding thirty-two (32) square feet in area publicizing a specific event of general public interest is allowed per street frontage.
- b) For yard or garage sales, no more than two (2) off-site directional yard sales/garage sales signs may be permitted, only during the hours the sale is actively being conducted and each sign shall not exceed 4 sq. ft. in area.
- c) For all other temporary events as classified in this section Signs shall be allowed to be erected for up to 30 days following the initial placement of the sign. After 30 days, the signs shall be removed.
- d) No signs may be placed in the public right-of-way or on public facilities. Signs shall be -placed only on private property.

3. Article 11 Section 11.08 (A) amended to add (12) as follows:

(12) **Special Event Signs**

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, is subject to the following standards.

- a) All temporary banner signs 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 12 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.
- b) No event shall display more than 200 cumulative square feet of total signage area, including all off-site and on-site signage allowed under this Section.
- c) No event shall display more than the allowable signs as detailed below.
  - i. Up to two signs may be located on the lot hosting the event for the allowable display period. This sign may be a banner sign if it is securely fastened and adequately vented to prevent uplifting. These signs shall be no larger than 32 square feet each.
  - ii. One sign may be a banner sign posted at each of the “Town of Sunset Beach” town entrance sign locations. These signs shall be no larger than 32 square feet each and shall not block the visibility of the entrance signs. These signs may be placed up to 2 weeks prior to the event and shall be removed within 48 hours of the start of the event.
  - iii. Off-site directional signs to the event may be displayed in different locations, but not in a driveway or intersection sight triangle. These signs

must be of rigid construction (not banner signs) and may not exceed 6 square feet in area. These signs may be placed the day before the event and must be removed the day after the event. These signs shall only be placed for day events. The sign locations must be included in the permit application materials and be approved by the Town.

- iv. Off-site banner signs for the event may be displayed in different locations, but not in a driveway or intersection sight triangle. Each sign shall not exceed 32 square feet in area and be located on private property.

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### **UDO Amendment Adopted 06/21/16**

1. Appendix A Section A 3 amended to add the following definition:

**Sand Dunes**

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

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### **UDO Amendment Adopted 06/27/16**

1. Article 5 Project Review Process Section 5.02 Pre-Application Meeting and Sketch Plan amended to add the following sentence:

The ***UDO Administrator*** shall require a copy of a deed or other instrument under which the applicant claims title before issuing any permits for new construction. Structural improvements, renovations, remodeling or additions to existing structures are exempt from this requirement.

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### **UDO Amendments Adopted 10/03/16**

1. Article 6 Zoning Districts and Article 7 Supplemental Regulations amended as follows:

- To remove Private Community Centers from the BB1 Zoning District as a Permitted Use with Supplemental Regulations

### **SECTION 6.04 TABLE OF PERMITTED/SPECIAL USES**

	<i>Primary Zoning Districts</i>															
<b>Uses</b>	MR1 p.6-17	MR2 p.6-19	MR2A p.6-21	MR3 p.6-22	MB1 p.6-24	MB2 p.6-26	BR1 p.6-27	BR2 p.6-29	BB1 p.6-31	MH1 p.6-33	MH2 p.6-35	RI1 p.6-37	CR1 p.6-39	AF1 p.6-41	MUD *	<i>Supplemental Regulations</i>
<b>Private community centers</b>	PS	PS	PS	PS	PS	PS			PS	PS	PS	PS		PS	PS	Section 7.11

2. Article 7 Supplemental Regulations amended to remove the expressed Exception stated in Section 7.11 Private Community Centers

**SECTION 7.11 PRIVATE COMMUNITY CENTERS**

(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.

~~Exception—Private Community Centers may be permitted outside of the respective subdivision when located in BB-1.~~

**UDO Amendment Adopted 12/05/16**

1. Article 6 Zoning Districts amended Section 6.03 of Article 6 Zoning Districts as follows:

**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:
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.

2. Article 6 Zoning Districts amended to add Section 6.07 titled Overlay Zoning District Development Standards of Article 6 Zoning Districts as follows:

**SECTION 6.07 OVERLAY ZONING DISTRICT DEVELOPMENT STANDARDS**

**(A) *Gateway Corridor Overlay District.***

1. General Requirements.

The following general requirements apply to the Gateway Corridor Overlay District:

- a. The Gateway Corridor Overlay District is a district that supplements the underlying zoning district established on the site. In addition to the requirements of the underlying zoning district(s), the requirements herein shall apply to all new construction, additions, alterations, or expansions to existing buildings, parking lots or vehicular storage areas, as expressed herein.
- b. All uses permitted in the underlying zoning districts are allowed as regulated by said districts, unless explicitly expressed herein.
- c. The specific development requirements of the Gateway Corridor Overlay District shall apply uniformly to all buildings on parcels that lie, in whole or in part, within the overlay.
- d. In case of conflict with the regulations of the underlying zoning district within the Unified Development Ordinance and these requirements, the requirements of this overlay shall govern.

2. Applicability.

The Gateway Corridor Overlay District standards shall apply to all buildings on lots or open uses of land constructed, reconstructed, or established whereby the lot either fronts directly onto the corridor or to buildings within 300 ft. of the centerline of Highway 904 and Sunset Blvd; whichever is less. The boundary of the overlay shall begin at the intersection of Old Georgetown Rd. and NC Highway 904, running southward along Highway 904 to the intersection of NC Highway 904 and Sunset Blvd., then running West along Sunset Blvd., terminating at the Intercostal Waterway; as depicted on the Official Zoning Map of the Town of Sunset Beach.

1. Exemptions.

The Gateway Corridor Overlay District design standards shall not apply to:

- a. Single-family and duplex dwellings;
- b. Development within the Mixed-Use District (MUD);
- c. Churches or other places of religious assembly as a principle use on their own lot; and
- d. Golf courses and golf driving ranges.
- e. Those buildings existing on the effective date of the establishment of this overlay whose improvements do not exceed 50% of the structure's tax value of a 5,000 sf or less structure or do not exceed 25% of the structure's tax value of a structure greater than 5,000 sf. Tax values shall be based upon those provided by the Brunswick County Assessor's office.

f. Those projects that have an approved Site Specific Development Plan in compliance with the Unified Development Ordinance.

2. Expansion of Existing Uses.

Those buildings whose improvements exceed 50% of the structure’s tax value of a 5,000 sf or less structure or exceed 25% of the structure’s tax value of a structure greater than 5,000 sf (tax values shall be based upon those provided by the Brunswick County Assessor’s office) after the effective date of this overlay, the following requirements shall be met:

- a. Required street planting yards shall be provided. In locations where the entire width of the required planting yard cannot be provided due to existing development, planting yards shall be provided to the extent possible, with no reduction in the size or numbers of required plantings.
- b. The expanded portion only of any new parking lot or vehicular storage area shall meet the full landscaping and screening requirements for parking and vehicular surface areas.
- c. Nonconforming signage shall comply with the Unified Development Ordinance.
- d. A pedestrian path shall be required to be constructed in accordance with Section 6.07 (5)(C)(3) of this ordinance.

3. Use and Design Standards.

(A) Landscaping and Screening Requirements: Landscaping and screening shall be in planted in accordance with the requirements in Article 10 of the Unified Development Ordinance (UDO).

However, the permitted tree types shall be limited to the following:

Botanical Name	Common Name
Larger Trees and Shade Trees	
Magnolia Grandiflora	Southern Magnolia
Sabal Palmetto	Sabal Palm
Quercus Phellos	Willow Oak
Quercus Virginiana	Live Oak
Taxodium Distichum	Bald Cypress
Acer Rubrum	Red Maple
Quereus Falcata	Southern Red Oak
Juniperus Virginiana	Southern Red Cedar
Pinus Glabra	Spruce Pine
Understory Trees	
Cerci Canadensis	Redbud
Cornus Florida	Flowering Dogwood
Ilex “Nellie Stevens”	Nellie Stevens Holly
Ilex Opaca	American Holly

Lagerstroemia Hybrids	Crape Myrtle Hybrids
Magnolia Soulangeriana	Saucer Magnolia
Magnolia Virginiana	Sweet Bay Magnolia
Prunus Caroliniana	Carolina Cherry
Acer Palmatum	Japanese Maple
Eriobotrya Japonica	Loquat
Prunus Serrulata	Japanese Flowering Cherry
Aesculus Pavia	Red Buckeye

(B) Parking and Loading Areas:

- (1) Parking in the front of the building shall be limited to no more than 2 rows of parking parallel to the front façade of the principle building.
- (2) Bicycle racks shall be required.
  - a. A minimum of 3 bicycle parking spaces shall be provided. In addition to the required number bicycle rack spaces, spaces shall be provided at a rate of 1 bicycle space for every 20 required parking spaces; up to a maximum of 6 bicycle spaces. In the instance of a resulting fraction in calculation, the number shall be rounded up to the next applicable number.

(C) Access Management:

- (1) Driveway access for individual lots shall be limited to shared driveways at a minimum rate of one (1) driveway per two (2) lots to avoid multiple driveway cuts. Individual driveway accesses may be allowed at the discretion of the Planning Board when site conditions relative to topography, avoiding utility infrastructure, or other clearly identifiable safety conditions are present.
- (2) Cross access lanes shall be provided to neighboring properties to ensure access without the need to re-enter the road system. The Planning Board may waive or modify this requirement when site conditions relative to topography, avoiding utility infrastructure, or other clearly identifiable safety conditions are present.
- (3) A pedestrian path shall be required to be constructed along the entire frontage of the subject property where the development is occurring. The path shall be constructed to a minimum width of 5 ft. and to the specifications established for sidewalk construction found in Chapter 98 of the Town Code.

(D) Lighting:

- (1) For all lots with an existing or proposed cumulative building square footage of less than 25,000 sq. ft., all parking lot lighting shall be limited to a maximum height of 25 ft. Where possible, light poles shall be selected so they are consistent with existing lighting fixtures within the overlay district. Such lighting should be selected as a Brunswick Electric

Membership Corporation (BEMC) specialty fixture comparable with the image contained within this section. The Planning Board may apply discretion in selection of any lighting fixtures.



- (2) Decorative pathway lighting shall be provided for all pedestrian paths required by this overlay. Such lighting may include landscaping or bollard lighting to allow for adequate illumination of the path during night hours.

(E) Convenience Stores with Fuel Pumps and Gasoline Service Stations:

- (1) Buildings: Convenience store and gasoline service station buildings shall comply with the following standards:
  - a. Buildings shall have hip or gable roofs with earth colors. Flat roofs are prohibited;
  - b. Buildings shall be constructed with earth tone brick or with masonry which is painted with natural earth tones.
- (2) Canopies:
  - a. The maximum area of signage affixed to each side of a canopy shall not exceed 20 square feet or 25 percent of the canopy fascia, whichever is less
  - b. Canopy columns shall be finished with either brick or masonry that is consistent with the principal building material.
- (3) Landscape boulders or other decorative devices shall be used near driveway entrances in lieu of steel bollards. However, bollards may be used to protect fuel pump islands.
- (4) Fuel pricing signs shall display only the name, trademark, registered logo or vehicular fuel product and prices

(F) Architecture:

- (1) Primary building facades within the corridor overlay shall be finished with at least 80% of one or more of the following materials:
  - a. Brick and brick veneer;
  - b. Stone, stone veneer, and cultured stone;

- c. Precast or field-poured tilt concrete panels with texture and architectural detailing;
  - d. Stucco with architectural detailing;
  - e. Cementous siding;
  - f. Wood and wood materials designed and intended for use as exterior finish material;
  - g. Tilt wall panels;
  - h. Split-faced Concrete Masonry Units (CMU);
  - i. Other materials approved by the Planning Board consistent with the purpose of these standards.
- (2) Corrugated metal or vinyl siding used as a primary siding material is prohibited. However, such siding may be used for secondary trim and architectural accent materials not included in the principle façade calculation as outline in F(1) above.
  - (3) No awnings or canopy fascia shall be internally lit.
  - (4) Exposed neon tubing or other similar lighting shall not be allowed as exterior building treatments.
  - (5) Applicants are required to submit color renderings, color elevation drawings, or color photographs with the site plan or to place a note on the site plan indicating that compliance with this section shall be achieved and approved by the Planning and Inspections Director prior to installation.

#### (G) Color

- (1) Building and roof colors shall consist of earth tone colors. Primary colors or bright colors shall be limited to trim and signage. Day glow or neon colors shall be prohibited. This standard shall apply at any time a building is refaced, repainted, or when the exterior color of the applicable wall is substantially changed by more than 50%.
- (2) Applicants are required to submit color renderings, color elevation drawings, or color photographs with the site plan or to place a note on the site plan indicating that compliance with this section shall be achieved and approved by the Planning and Inspections Director prior to installation.
- (3) The overall exterior color scheme must be selected to be harmonious with the neighborhood and blend with the natural surroundings of the site. Earth tones must be chosen as the predominant colors. Colors shall not be

used to cause the structure to stand out from others or its background. Consideration must be given to the compatibility of colors with those existing in the vicinity. The size of the structure and the amount of shading it will receive are also factors in the selection of colors. Colors that may be approved on sites with good tree coverage providing adequate shading may not be approved on a site with inadequate shading. An example earth tone color palate is provided herein.



- (4) Color Hue. Any accent colors shall be of analogous tints, shades, or tones that are low in intensity or brightness. Primary, secondary, and highly saturated, bright tertiary colors should be avoided. Accent colors may only be approved for very limited use where appropriate to highlight a feature of the design or provide visual interest. A small area of brighter color may be appropriate to emphasize an architectural detail but would not be approved for a larger area. The number of such colors shall be limited and must be compatible within the overall color scheme.
- (5) Contrast. Exterior color schemes must avoid placing together colors with values that are highly contrasting. Subtle levels of contrast are desirable to emphasize architectural elements or to provide visual interest. A slightly darker wall color on the bottom story of a two-story structure may help reduce the visual height of the building. The use of black, white or off-white is typically avoided and may be approved only for very limited use where a high level of contrast is warranted.

(6) Signage. Signage shall be in accordance with the following requirements. In case of conflict with the signage provisions of the underlying zoning districts, the stricter standard shall apply.

(H) Prohibited signs: In addition to signage prohibited by the Unified Development Ordinance, the following signs shall be prohibited in the corridor overlay:

- a. Signs containing exposed neon tubing, but not including those attached to or displayed within a window.

3. Article 7 Supplemental Regulations amended Section 7.09 Privacy Fences (B) Single Family Residential by amending the last sentence as follows:

**A fence or wall may be constructed on the property line subject to the** ~~The~~ following conditions ~~must be met~~ in all **zoning** districts:...



4. Article 7 Supplemental Regulations amended Section 7.09 Privacy Fences (B) Single Family Residential (3) to correct a misspelled word as follows:

(3) Side **fences** or walls shall be placed a minimum of five (5) feet behind the front ~~foot~~ **foot**-print of the house.



5. Article 7 Supplemental Regulations Appendix A Definitions amended as follows:

***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. ~~Uncovered wooden slatted decks and the water area of a swimming pool are considered pervious. 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).~~



## **UDO Amendment Adopted 01/09/17**

1. Article 2 General Regulations Subsection 2.18 Filling, Grading and Excavation amended to repealed and replaced as follows:

### **REPEALED**

#### **SECTION 2.18 Filling, Grading, and Excavation**

- (A) The amount of fill added to a lot will not be greater than one foot above the crown of the road except fill that is necessary to meet Health Department or State Storm water requirements for a permit. The fill will also be limited by the height of the adjacent side lot that has been developed and cannot exceed the developed lot in height by greater than one foot. In the case of two lots back to back or adjacent, any differential in fill greater than one foot at the common line of the two lots, the higher lot must construct a wall, bulkhead, or a satisfactory containment device to prevent the fill and surface water from running on the lower lot.
- ~~(B) In lowering the level of a lot by grading or removing sand, the higher limit will not exceed one foot above the crown of the road when finished and stabilized. Sand will not be taken from the island; and sand used to fill low lots will be stabilized to prevent wind erosion.~~
- ~~(C) A silt fence must be erected around that portion of a lot being disturbed that causes erosion onto adjacent property and street right of ways. Exception: Only the portion of a lot adjoining golf course greens or fairways or a portion of a lot for construction access is exempt.~~
- ~~(D) No lot, parcel or tract of land may be disturbed by grading, filling, excavation, and removal of trees or removal of stumps without obtaining a Fill and Grade permit.~~

### **REPLACED WITH**

#### **SECTION 2.18 Filling, Grading, and Excavation**

- (A) No *lot*, parcel or tract of land may be disturbed by grading, filling, excavation, and removal of trees or removal of stumps without a Town Fill and Grade permit. Permits for Fill and Grade shall be accompanied by a scaled grading plan depicting elevation change prepared by a licensed surveyor, landscape architect, or professional engineer. For single-family residential and duplex dwelling uses, when fill is not proposed in excess of 4 inches, a scaled grading plan is not required.
- (B) Exceptions to this section:

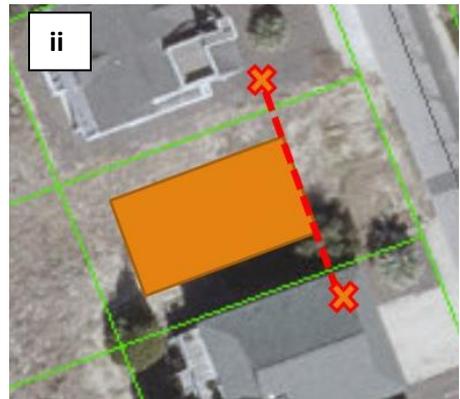
- a. Fill that is necessary to meet any County or State requirements for a Health or Storm Water permit. In which case, fill shall only be allowed to the minimum extent necessary to obtain a permit.

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

- a. For **lots** on the island:
  - i. For **lots** where only one adjacent side **lot** is developed, the **finished ground level** shall be no greater than the **finished ground level** of the adjacent, developed lot.



- ii. For **lots** where both adjacent side **lots** (front and rear for corner **lots**) are developed, the **finished ground level** of any **lot** shall be determined by measuring the average elevation of two points along the proposed **building footprint** that extends 10 feet past each adjacent **lot** line. The **finished ground level** shall be no greater than this measurement.



- iii. For **lots** where both adjacent side **lots** (front and rear for corner lots) are not developed, the **finished ground level** shall be no greater than one foot above the crown of the road.



- iv. For **lots** whose average grade is above the adjacent road, the established **finished ground level** shall be determined by measuring the average elevation of the ground. The average elevation shall be measured in accordance with Section 2.18 (A)(a)(ii).



- v. Sand will not be taken from the island nor shall it be removed from the CAMA Area of Environmental Concern (AEC) from which it originated.
  - vi. In no instance shall the construction of a **street** result in a change in elevation at any point along said **street** that exceeds one foot above the existing grade at the time of applying for a Town issued permit for Fill and Grade.
- b. For **lots** on the mainland:  
 When grading or filling of a lot is proposed, the **finished ground level** of any **lot** shall be measured in accordance with Section 2.18 (A)(a)(ii).
- c. In instances whereby the **finished ground level** cannot be obtained as specified herein due to natural topography, existing development adjacent to the **lot**, or other factors relative to site conditions, the **Planning Board** shall determine the **finished ground level** upon review and approval of a proposed grading plan.
- (D) All fill shall be established at a slope not to exceed 3:1 (three feet horizontal run for every one-foot vertical rise) and shall be stabilized to prevent erosion. Alternatively, construction of a retaining wall, bulkhead, or other engineered containment device to prevent fill and surface water from running onto adjacent **lots** may be permitted.
- (E) The builder and/or owner shall be responsible for grading the **lot** in such a manner as to absorb surface runoff and/or provide a stormwater catchment system for runoff.



(A) ~~In the event that the owner fails to timely repair the dock, pier, or bulkhead, as required by the Town, and the dock, pier or bulkhead is in a condition so as to be of imminent threat to the health, safety or general welfare of the adjacent property owners or the general public, the town may remove and dispose of said structure upon five (5) days notice to the owner thereof.~~

**(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.



2. Article 13 Subdivision Regulations Section 13.01 amended as follows:

**SECTION 13.01 PRELIMINARY PLAT**

(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.



3. Article 13 Subdivision Regulations Section 13.02 amended as follows:

**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, the applicable zoning regulations and any applicable other



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 delegate the authority to review and approve all subdivision improvement agreements ~~to the Chief Building Inspector. The Chief Building Inspector may delay the requirement for the completion of required improvements prior to recording of the final plat or final site development plan if the applicant enters into a Subdivision Improvement Agreement by which the applicant agrees to complete all required~~ 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. Such period may be extended for up to an additional six (6) months upon its expiration at the discretion of the UDO Administrator. The Applicant shall bear the responsibility to prepare a Subdivision Improvement Agreement. The Town Attorney shall approve any Subdivision Improvement Agreement as to form.

~~In order to provide for emergency access, no Subdivision Improvement Agreement shall be approved, and no performance guarantee shall be accepted, until the Base Course for the streets within the applicable phase for which a final plat is proposed has been installed.~~

~~At the discretion of the UDO Administrator, the Town of Sunset Beach may enter into a subdivision improvement agreement with the applicant for a development containing multiple final plats or plans. Notwithstanding any provision in this Ordinance to the contrary, the subdivision improvement agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.~~

- (B) *Performance Security.* Whenever ~~the Chief Building Inspector permits 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 N.C.G.S. § 160A-372(g)(1) ~~the form of an irrevocable letter of credit, or cash escrow.~~ 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 ~~approved by the Chief Building Inspector~~ as 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. ~~The County Engineer~~ 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 be 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 ~~by the Chief Building Inspector~~. 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 ~~Chief Building Inspector~~ 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 ~~Chief Building Inspector~~ shall inspect the work. ~~If the Chief Building Inspector~~ UDO Administrator shall have the work inspected. ~~The County Engineer shall determine if the water and sewer utilities work is satisfactory and complete.~~ 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 ~~Chief Building Inspector~~ shall also require evidence from the subdivider that all contractors have been paid in full prior to the release of the performance security.
- (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.



(8) Underground electric service to serve all development within the subdivision.

6. Article 13 Subdivision Regulations Section 13.19 amended as follows:

**SECTION 13.19 FINAL PLAT DEVELOPMENT PLAN**

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. ~~The final site development plan shall comply substantially with the preliminary site development Plan; however, it shall have sufficient detail to permit its being recorded by the Register of Deeds. The Board of Adjustment shall review the final site development plan and recommend the approval, conditional approval, or denial of the same. After conducting a public hearing according to Section 13.17, the stated reasons for conditional approval or disapproval shall be placed in the record of the minutes of the proceedings.~~

**UDO Amendment Adopted 05/01/17**

1. Article 6 Zoning Districts Section 6.06 amended as follows:

(D) MB-1 Mainland Business District.

A. Commercial Non-residential Uses:

1. Required Yards. No building shall be less than 5 feet from the property line abutting any street right-of-way. No other yards are required. ~~except where a business use abuts an existing residential dwelling use or any area zoned residential; it shall provide, along the abutting property lines, a side yard of at least 8 feet and a rear yard equal to at least 20 feet. In all cases where a side yard is provided it shall be at least 4 feet in width.~~
2. Required Building Lot Area. The required building lot area for any non-residential use ~~business~~ shall be a minimum of 6,000 square feet. The building lot area shall have a minimum average lot width of 50 feet.
2. ~~No building shall exceed 35 feet in height unless the depth of the front and total width of side yards required herein shall be increased one foot for every two feet, or fraction thereof, of building height in excess of 35 feet. However, under no circumstance shall the building height exceed 50 feet as measured pursuant to Appendix A.~~
3. ~~Required Building Lot Area. The required building lot area for any business shall be a minimum of 6,000 square feet. The building lot area shall have a minimum average lot width of 50 feet.~~

4. Where through lots occur, the required front yard setback shall be provided on both streets.
5. Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.

#### B. Residential Uses:

1. Residential: Same as required in the MR-1 District.
2. Multi-Family: Same as required in the MR-1 District.
  1. Required Yards. No building shall be less than 25 feet from the property line abutting any street right-of-way provided that no detached single-family residential development shall be closer than 150 feet from the property line abutting the street right-of-way of NC 179/904 (including Sunset Blvd, Seaside Road, Shoreline Drive West, and Beach Drive).
  2. Minimum Required Side Yard:
    - a. Between buildings in a multi-family project: 20 feet
    - b. Between the building and lot line in a multi-family use: 20 feet
    - c. Single-family residential uses: 5 feet
  3. Minimum Required Rear Yard: 15 feet
  4. Density: Up to 21.7 dwelling units per acre.
  5. Minimum lot size: 4,500 square feet.
  6. Minimum Required Floor Space:
    - a. For single-family residential dwellings, the building footprint of the structure, exclusive of carports, garages, decks, porches, utility rooms or attendant buildings: 750 square feet.
    - b. Any dwelling unit in a multi-family building: 750 square feet.

#### C. Accessory Structures:

1. No accessory structure shall be erected in any front yard, required side yard, within 15 feet of any street line or within 5 feet of any rear yard lot line not a street line. On reverse corner lots, no accessory building or accessory structure shall extend beyond the front yard line of the lot to its rear.
2. Any structure that is attached to the principal building by a conventionally framed and covered roof system, with a minimum width of 5 feet, may be considered part of the principal building and shall be required to comply with the minimal front yard setback requirements.
  - a. The height may be no greater than 16 feet.

D. Building Height. No single-family residential building shall exceed 35 feet in height. For all other uses, no building shall exceed 35 feet in height unless the depth of the front and total width of side yards required herein shall be increased one foot for every two feet, or fraction thereof, of building height in excess of 35 feet. However, under no circumstance shall the building height exceed 50 feet as measured pursuant to Appendix A.

E. Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution prepared by a North Carolina Professional Engineer that meets the intent of the Stormwater Ordinance and is approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.

**UDO Amendment Adopted 06/05/17**

1. Article 9 Performance Standards Section 9.09 amended to add carry-out restaurant parking space requirements as follows:

Building Type	Number of Required Parking Spaces
Restaurants	1 per 3 seats or 50 sq. ft. (whichever is greater)
<b>Carry-out restaurant/café (5 or fewer seats)</b>	<b>1 per 200 sq. ft.</b>
Drive-through Window (Restaurants)	3 stacking or queuing spaces for the first window; 3 stacking spaces for each additional window.

2. Article 6 Zoning Districts Section 6.04 amended to add to the chart in alphabetical order under *Nonresidential Uses*:

Uses	MR1 p.6-17	MR2 p.6-19	MR2A p.6-21	MR3 p.6-22	MB1 p.6-24	MB2 p.6-26	BR1 p.6-27	BR2 p.6-29	BB1 p.6-31	MH1 p.6-33	MH2 p.6-35	RI1 p.6-37	CR1 p.6-39	AF1 p.6-41	MUD *	Supplemental Regulations
<b>Fences (nonresidential)</b>					<b>PS</b>	<b>PS</b>			<b>PS</b>						<b>PS</b>	<b>Section 7.09</b>

3. Article 7 Supplemental Regulations Section 7.09 amended as follows:

TITLE AMENDMENT: **SECTION 7.09 ~~PRIVACY FENCES~~**

(B) Single Family Residential 1 amended to add the last sentence as follows:

.....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.

Subsection (C) Nonresidential added as follows:

(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 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 foot-print 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.



### **UDO Amendment Adopted 08/15/17**

1. Article 10 Landscaping & Buffering Requirements amended to repeal and replace as follows:

#### **REPEALED**

(A) — *Purpose.* The purpose of this section is:

- (1) — To recognize the importance of mature trees to the quality of life;
- (2) — To conserve energy and retard storm water runoff;
- (3) — To safeguard and enhance property values and to protect public and private investment through protection of significant ***existing trees***; and
- (4) — To prevent the indiscriminate removal of trees.
- (5) — To protect trees considered valuable to the Town of Sunset Beach as defined in Appendix C, **Heritage Trees**/Plant List.

(B) — *Tree Removal Permit Required.*

- (1) — No person, land owner, or corporation directly or indirectly, shall remove any **heritage tree** from private property without first obtaining a tree removal permit as provided in this chapter. The requirement for tree removal permits shall apply within the entire area covered by the Town's **zoning** authority including the areas known as the mainland, beach, and extra territorial jurisdiction except a lot occupied by a **single-family** home.
- (2) — All persons seeking a permit for removal of a **heritage tree** shall make applications to the Building Inspector.
- (3) — The Building Inspector shall issue a tree removal permit if the **applicant** demonstrates one (1) or more of the following situations:

- (a) For ~~**new construction**~~, the ~~**applicant**~~ is able to show that essential site improvements cannot be installed without removal of the ~~**heritage tree(s)**~~. Examples of essential site improvements are the principal/~~**accessory building(s)**~~, off ~~**street**~~ parking, driveway, storm water management facilities;
  - (b) The ~~**heritage tree**~~ is dead, severely diseased, injured, or in danger of falling close to existing or proposed ~~**structures**~~;
  - (c) The ~~**heritage tree**~~ poses an identifiable threat to individuals or ~~**public safety**~~, and/or
  - (d) Removal of the ~~**heritage tree**~~ is necessary to enhance or protect the health or condition of adjacent trees.
- (4) Moving ~~**heritage trees**~~ is encouraged if adequate care is taken to ensure survival of the tree.
- (5) ~~**Heritage trees**~~ permitted to be removed shall be replaced on a one (1) for one (1) basis with an approved tree. Size and species are to be determined from a standard approved tree list established and published by Town Hall.
- (6) ~~**Golf courses**~~ may remove trees based on the following standards:
- (a) Any ~~**golf course**~~ operation may remove up to twenty five (25) trees per year without justification. A permit will be required for tracking purposes; however, no basis for removal is required for up to twenty five (25) trees annually.
  - (b) For all trees in excess of twenty five (25), ~~**golf courses**~~ must comply with the Town's standard tree removal policy.
  - (c) Any golf course operation may remove any tree not deemed to be a ~~**heritage tree**~~ within 10 ft. of any clearly identified and functioning cart path without justification or permit. ~~**Heritage trees**~~ within 10 ft. of a cart path must meet the standards in 10.05(B) above.
- (C) ~~*Requirements for Tree Removal Permit Application.*~~
- (1) Brief written description of the reason for removal of the tree(s).
  - (2) A ~~**site plan**~~, prepared by a professional surveyor, showing the approximate location of all ~~**heritage trees**~~ or groups of trees, location and ~~**footprint**~~ of any and all existing or proposed buildings and ~~**structures**~~, and the removal plan must

identify the size, species, height, drip line, and health of all **heritage trees** and groups of trees.

- ~~(3) — A description of the methods proposed to move a **heritage tree**, if applicable.~~
- ~~(4) — Photographs of trees, or groups of trees, to be removed.~~
- ~~(5) — Any other information that may be required by the Building Inspector to issue the permit.~~
- ~~(6) — The Building Inspector may require a report from an arborist, horticulturalist, or other Town-approved professional regarding the health of a tree to be removed.~~

#### **REPLACED WITH**

(A) Purpose. The purpose of this section is:

- (1) To recognize the importance of mature trees to the quality of life;
- (2) To conserve energy and retard storm water runoff;
- (3) To safeguard and enhance property values and to protect public and private investment through protection of significant **existing trees**; and
- (4) To prevent the indiscriminate removal of trees.
- (5) To protect trees considered valuable to the Town of Sunset Beach as defined in Appendix C, **Heritage Trees**/Plant List.

(B) Heritage Tree Survey

(1) A heritage tree survey shall be required for any multi-family development, nonresidential development, major subdivision or planned unit development along with appropriate application for a site plan, preliminary plat, or special use permit. The heritage tree survey shall show the general location, species and size of any tree. However, a heritage tree survey shall not be required for land in the floodway (unless filled or developed in accordance), preserved wetlands and wetlands buffers, steep slope areas, and stream buffers.

(2) Having better information about the location of heritage trees is not especially useful where plans call for the preservation of large areas of undisturbed vegetation. An example is the pervious portions of developments in watershed protection districts. Producing such information adds to the project's cost without providing information that could result in project redesign. Where unique site conditions or a proposed development arrangement indicate that the required heritage tree survey would produce little useful information, the Planning Board shall have the authority to waive the requirements for a heritage tree survey for all or a portion of the tract.

(C) Permit Required for Heritage Tree Removal.

(1) No person, land owner, golf course, or corporation directly or indirectly, shall remove any **heritage tree** from private property without first obtaining a tree removal permit as provided in this chapter. The requirement for tree removal permits shall apply within the entire area covered by the Town's **zoning** authority including the areas known as the mainland, beach, and extra territorial jurisdiction except a lot occupied by a **single-family** home. A tree removal permit is not required for non-heritage trees. See Appendix C for a listing/definition of such trees.

(2) All persons seeking a permit for removal of a **heritage tree** shall make applications to the UDO Administrator.

(3) The UDO Administrator shall issue a tree removal permit if the **applicant** demonstrates one (1) or more of the following situations:

(a) For **new construction**, the **applicant** is able to show that essential site improvements cannot be installed without removal of the **heritage tree(s)**. Examples of essential site improvements are the principal/**accessory building(s)**, off-**street** parking, driveway, storm water management facilities;

(b) The **heritage tree** is dead, severely diseased, injured, or in danger of falling close to existing or proposed **structures**;

(c) The **heritage tree** poses an identifiable threat to individuals or **public safety**; and/or

(d) Removal of the **heritage tree** is necessary to enhance or protect the health or condition of adjacent trees and/or golf course tee box/fairway/putting green turf.

(4) Moving **heritage trees** is encouraged if adequate care is taken to ensure survival of the tree.

(5) **Heritage trees** permitted to be removed shall be replaced on a one (1) for one (1) basis with an approved tree. Replacement trees shall be planted at minimum caliper of 2 inches at 4.5 feet above ground and be of a species identified in the Canopy or Understory Tree list contained in Appendix C of this ordinance.

(D) Requirements for Heritage Tree Removal Permit Application.

(1) Brief written description of the reason for removal of the heritage tree(s) in accordance with Section 10.06 (C)(3).

(2) A **heritage tree** survey, prepared by a professional surveyor, professional engineer, landscape architect, golf course superintendent, or licensed arborist, showing the

approximate location of all **heritage trees** or groups of trees, property lines, location and **footprint** of any and all existing or proposed buildings and **structures**, and the removal plan must identify the size, species, height, drip line, and health of all **heritage trees** and groups of trees.

- (3) A description of the methods proposed to move a **heritage tree**, if applicable.
- (4) Photographs of trees, or groups of trees, to be removed.
- (5) The location of all heritage ~~tree~~ replacement trees shall be provided on the heritage tree survey, landscape plan, and/or site plan. Replacement trees shall be clearly identified and must include planting size and species. A planting schedule/list may accompany the plan/survey as necessary.
- (6) Any other information that may be required by the UDO Administrator to issue the permit.
- (7) The UDO Administrator may require a report from an arborist, horticulturalist, or other Town-approved professional regarding the health of a tree to be removed.

#### (E) Tree Removal for Golf Course Operations

**Golf courses** may remove trees (heritage or otherwise) based on the following standards:

- (1) Any **golf course** operation may remove up to twenty-five (25) **trees** of any variety per year without justification per 18 hole course.
- (2) A permit will be required for tracking purposes; however, no basis for removal is required for up to twenty-five (25) trees annually. A heritage tree survey shall still be required.
- (3) All **heritage trees** removed shall be replaced in accordance with 10.06 (C)(5).
- (4) For all trees in excess of twenty-five (25), **golf courses** must complete a survey of the areas proposed for tree removal and seek justification for removal as per 10.06(C)(3). All other provisions of the ordinance regarding **heritage trees** must be met.
- (5) Any golf course operation may remove any tree not deemed to be a **heritage tree** within 15 ft. of any clearly identified and functioning cart path on their own property without justification or permit. **Heritage trees** within 15 ft. of a cart path must meet the standards in 10.05(B) above.



2. Appendix C Heritage Trees/Plant List Section C.1 Heritage Tree Determination was amended as follows:

- ~~(A) — A heritage tree survey shall be required for any multi-family development, nonresidential development, major subdivisions or planned unit development, with applications for site plan, preliminary plat, development plan, or special exception permit. The heritage tree survey shall show the general location, species and size of any tree. However, a heritage tree survey shall not be required for land in the floodway (unless filled or developed in accordance), preserved wetlands and wetlands buffers, steep slope areas, and stream buffers.~~
  
- (B) For purposes of this Ordinance, a heritage tree shall be defined as follows:
  - (A) An American holly with a trunk caliper measurement of 8" or greater measured at 4.5 feet above ground;
  - (B) A flowering dogwood with a trunk caliper measurement of 4" or greater measured at 4.5 feet above ground;
  - (C) A redbud with a trunk caliper measurement of 4" or greater measured at 4.5 feet above ground;
  - (D) A live oak with a trunk caliper measurement of 4" or greater measured at 4.5 feet above ground; and
  - (E) Any tree species included in the planting table (Section B C. 2) with a trunk caliper measurement of 18" or greater measured at 4.5 feet above ground.
  
- ~~(C) — For development plans where specific building locations are not shown, a more generalized survey of vegetation may be provided in lieu of a heritage tree survey. This survey shall describe existing forest stands, indicating the average species and size of trees on the tract.~~
  
- ~~(D) — Having better information about the location of heritage trees is not especially useful where plans call for the preservation of large areas of undisturbed vegetation. An example is the pervious portions of developments in watershed protection districts. Producing such information adds to the project's cost without providing information that could result in project redesign. Where unique site conditions or a proposed development arrangement indicate that the required heritage tree survey would produce little useful information, the Planning Director shall have the authority to waive the requirements for a heritage tree survey for all or a portion of the tract.~~



material from surface waters, estuarine waters, SA waters and/or waters of the Atlantic Ocean.

4. Article 2 General Regulations is hereby amended by inserting the following in numerical order:

**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.

5. Article 2 General Regulations is hereby amended by inserting the following in numerical order:

**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.

6. Article 7 Supplemental Regulations is hereby amended by inserting the following in numerical order:

**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

7. Article 7 Supplemental Regulations is hereby amended by inserting the following in numerical order:

**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



### **UDO Amendment Adopted 11/21/17**

1. Article 3 Administrative/Legislative Authority is hereby amended with the addition of the following language in numerical order:

#### **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;
- (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;
- (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;



(b) No event shall display more than 200 cumulative square feet of total **signage** area, including all off-site and on-site **signage** allowed under this Section.

(c) No event shall display more than the allowable **signs** as detailed below.

i. Up to two **signs** may be located on the lot hosting the event for the allowable display period. This **sign** may be a banner **sign** if it is securely fastened and adequately vented to prevent uplifting. These **signs** shall be no larger than 32 square feet each.

ii. One **sign** may be a banner sign posted at each of the "Town of Sunset Beach" town entrance visibility of the entrance **signs**. These **signs** may be placed up to 2 weeks prior to the event and shall be removed within 48 hours of the start of the event.

iii. Off-site directional **signs** to the event may be displayed in different locations, but not in a driveway or intersection sight triangle. These **signs** must be of rigid construction (not banner **signs**) and may not exceed 6 square feet in area. These **signs** may be placed the day before the event and must be removed the day after the event. These **signs** shall only be placed for day events. The **sign** locations must be included in the permit application materials and be approved by the Town.

iv. Off-site banner **signs** for the event may be displayed in different locations, but not in a driveway or intersection sight triangle. Each **sign** shall not exceed 32 square feet in area and be located on private property. (Am. Ord. 05/02/15)

## **REPLACED**

### (12) Special Event Signs.

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.

(a) All temporary banner signs may be erected no more than 2 weeks prior to the event and shall be removed no later than 24 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.

(b) No event shall display more than 200 cumulative square feet of total signage area, including all off-site and on-site signage allowed under this Section.

(c) No event shall display more than the allowable signs as detailed below.

i. Up to two signs may be located on the lot hosting the event for the allowable display period. The display period shall be 2 weeks prior to the event and the duration of the event up to 25 weeks. This sign may be a banner sign if it is securely fastened and adequately vented to prevent uplifting. These signs shall be no larger than 32 square feet each.

ii. One sign may be a banner sign posted at each of the "Town of Sunset Beach" town entrance visibility of the entrance signs. These signs may be placed up to 2 weeks prior to the event and shall be removed within 24 hours following the conclusion of the event.

iii. Off-site directional signs to the event may be displayed in different locations, but not in a driveway or intersection sight triangle. These signs must be of rigid construction (not banner signs) and may not exceed 6 square feet in area. These signs may be placed the day before the event and must be removed the day after the event. These signs shall only be placed for day events. The sign locations must be included in the permit application materials and be approved by the Town.

iv. Off-site banner signs for the event may be displayed in different locations, but not in a driveway or intersection sight triangle. Each sign shall not exceed 32 square feet in area and be located on private property.



### **UDO Amendment Adopted 03/05/18**

Article 6 Table of Uses Section 6.07 Overlay Zoning District Development Standards is amended as follows:

(A) 3 Exemptions (e) is amended from:

Those buildings existing on the effective date of the establishment of this overlay whose improvements do not exceed 50% of the structure's tax value of a 5,000 sf or less structure or do not exceed 25% of the structure's tax value of a structure greater than 5,000 sf. Tax values shall be based upon those provided by the Brunswick County Assessor's office.

To:

Those buildings existing on the effective date of the establishment of this overlay whose exterior improvements do not exceed 50% of the structure's tax value of a 5,000 sf or less structure or do not exceed 25% of the structure's tax value of a structure greater than 5,000 sf. Tax values shall be based

upon those provided by the Brunswick County Assessor's office. Internal renovations of existing buildings will not count towards these improvement costs.

(A) 4 Expansion of Existing Uses is amended from:

Those buildings whose improvements exceed 50% of the structure's tax value of a 5,000 sf or less structure or exceed 25% of the structure's tax value of a structure greater than 5,000 sf (tax values shall be based upon those provided by the Brunswick County Assessor's office) after the effective date of this overlay, the following requirements shall be met:

To:

Those buildings whose exterior improvements exceed 50% of the structure's tax value of a 5,000 sf or less structure or exceed 25% of the structure's tax value of a structure greater than 5,000 sf (tax values shall be based upon those provided by the Brunswick County Assessor's office) after the effective date of this overlay, the following requirements shall be met:

(A) 4 Expansion of Existing Uses (d) is amended from:

A pedestrian path shall be required to be constructed in accordance with Section 6.07 (5)(C)(3) of this ordinance.

To:

A pedestrian path shall be required to be constructed in accordance with Section 6.07(A)(5)(C)(3) of this ordinance.

(A) 4 Expansion of Existing Uses is amended to add:

e. If buildings are to be refaced or painted during this process, then the colors shall be in compliance with 6.07(A)(5)(G) Color.

f. Exception: The costs of any internal renovations of existing buildings will not count towards the percent value of the structure's tax value when determining if the expansion of existing uses must execute items a-e of this section.

(A) 5B Parking and Loading Areas (2)a is amended from:

A minimum of 3 bicycle parking spaces shall be provided. In addition to the required number bicycle rack spaces, spaces shall be provided at a rate of 1 bicycle space for every 20 required parking spaces; up to a maximum of 6 bicycle spaces. In the instance of a resulting fraction in calculation, the number shall be rounded up to the next applicable number.

To:

A minimum of 3 bicycle parking spaces shall be provided.

(A) 5B Parking and Loading Areas (2) is amended to add:

b. Additionally, bicycle spaces shall be provided at a rate of 1 bicycle space for every 20 required parking spaces (round up fractions) up to a maximum of 6 bicycle spaces.

c. Below are examples of small-scale bicycle racks.



(A)5(C) Access Management (1) is amended from:

Driveway access for individual lots shall be limited to shared driveways at a minimum rate of one (1) driveway per two (2) lots to avoid multiple driveway cuts. Individual driveway accesses may be allowed at the discretion of the Planning Board when site conditions relative to topography, avoiding utility infrastructure, or other clearly identifiable safety conditions are present.

To:

Driveway access for individual lots shall be limited to shared driveways at a maximum rate of one (1) driveway per two (2) lots to avoid multiple driveway cuts. Individual or multiple driveway accesses may be allowed at the discretion of the Planning Board when site conditions relative to topography, avoiding utility infrastructure, or other clearly identifiable safety conditions are present.

(A)5(C) Access Management (1) is amended to add:

(4) Dumpster/refuse enclosures for individual lots shall be designed to be shared with a neighboring lot. Individual dumpster/refuse enclosures may be allowed at the discretion of the Planning Board when site conditions relative to topography, avoiding utility infrastructure, or other clearly identifiable safety conditions are present.

(A)5(D)Lighting (1) is amended from:

(1) For all lots with an existing or proposed cumulative building square footage of less than 25,000 sq. ft., all parking lot lighting shall be limited to a maximum height of 25 ft. Where possible, light poles shall be selected so they are consistent with existing lighting fixtures within the overlay district. Such lighting should be selected as a Brunswick Electric Membership Corporation (BEMC) specialty fixture comparable with the image contained within this section. The Planning Board may apply discretion in selection of any lighting fixtures.



To:

(1) For all lots with an existing or proposed cumulative building square footage of less than 25,000 sq. ft., all parking lot lighting shall be limited to a maximum height of 25 ft. Where possible, light poles shall be selected so they are consistent with existing lighting fixtures within the overlay district. Such lighting should be selected as a Brunswick Electric Membership Corporation (BEMC) specialty fixture comparable with the images contained within this section. The Planning Board may apply discretion in selection of any lighting fixtures.



(A)5(D) Lighting (2) is removed:

(2) Decorative pathway lighting shall be provided for all pedestrian paths required by this overlay. Such lighting may include landscaping or bollard lighting to allow for adequate illumination of the path during night hours.



**UDO Amendment Adopted 05/07/18**

Article 9 Performance Standards Part III Off-Street Parking Requirements Section 9.09 Off-Street Parking Space Requirements (D) Minimum Number of Required Spaces is amended from:

Table 9-1. Required Off-*Street Parking Spaces*

Restaurants	1 per 3 seats or 50 sq. ft. (whichever is greater)
-------------	--

To:

Restaurants	1 per 3 seats
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Article 9 Performance Standards Part III Off-Street Parking Requirements Section 9.09 Off-Street Parking Space Requirements (E) is repealed and replaced as follows:

**REPEALED:**

(E) The **Planning Board** may reduce the number of **parking spaces** required by this section up to ten percent (10%) upon finding that the reduced number of **parking spaces** will be sufficient to satisfy the demand for parking expected for the use, considering the nature of the use, the number of trips generated by the use, the times of day when the use generates the most trips, and the extent to which other establishments are located on the same property and may reduce the number of vehicle trips required between different establishments. However, the reduction must be made available by either of the following options:

- (1) Off-site parking as set out in Section 9.12 of this Ordinance.
- (2) Alternative **parking spaces** shall be provided as set out in Section 9.11 (D)(18) of this Ordinance.

**REPLACED:**

(E) Parking Reductions/Maximums. In the interests for allowance of open space, to prevent unnecessary overdevelopment, and to maintain the character of the Town, reductions and maximum limits to the requirements of Section 9.09(D) are prescribed below.

(1) The Planning Board may reduce the number of parking spaces required by this section up to ten percent (10%) upon finding that the reduced number of parking spaces will be sufficient to satisfy the demand for parking expected for the use, considering the nature of the use, the number of trips generated by the use, the times of day when the use generates the most trips, and the extent to which other establishments are located on the same property and may reduce the number of vehicle trips required between different establishments. However, the reduction must be made available by either of the following options:

- (a) Off-site parking as set out in Section 9.12 of this Ordinance.
  - (b) Alternative parking spaces shall be provided as set out in Section 9.11 (D)(18) of this Ordinance.
- (2) Parking requirements for the Beach Business (BB-1) and Mainland Business 2 (MB-2) zones may take an automatic ten percent (10%) reduction in required minimum spaces.
- (3) A site will not be developed with a number of parking spaces that exceeds ten percent (10%) over the minimum required spaces under Section 9.09(D). The applicant may apply to exceed this rule with an alternate parking plan which will include a parking demand study demonstrating how the maximum number of spaces allowed is insufficient for the proposed development.

In the event of a change of use or redevelopment of an existing site where the parking surface might exceed the calculated maximum number of spaces, no decrease in surface is required, though recommended, and no increase shall be allowed except through the provisions above.



## UDO Amendment Adopted 12/03/18

Article 7 Supplemental Regulations Section 7.09 Fences is amended as follows:

1. Section 7.09(A)(4) change six (6) feet to read eight (8) feet
2. Section 7.09(B)(3) be rewritten to read as follows:  
~~(3) Side fences or walls shall be placed a minimum of five (5) feet behind the front footprint of the house. 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.~~  
(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.
3. Section 7.09(B)(5) add the following statement after the preceding sentence:  
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.

Article 12 Environmental Regulations, Part I Flood Damage Prevention Ordinance (Coastal Regular Phase) Section 12.04(E) Standards for Coastal A Zones LiMWA replaces the word “Non-residential” with the word “All” to read as follows:

- (E) Standards for Coastal A Zones (Zone CAZ) LiMWA. ~~Non-residential~~ **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).

Article 6 Table of Uses is amended as follows:

Section 6.06(A)K be rewritten to read as follows:

~~K. The minimum required building footprint for each dwelling erected in this district shall contain a minimum of 1,800 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character.~~

K. The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 1,800 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet.

Section 6.06(B)K be rewritten to read as follows:

~~K. The minimum required building footprint for each dwelling erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character.~~

K. The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet.

Section 6.06(F)E be rewritten to read as follows:

~~E. The minimum required building footprint for each dwelling erected in this district shall contain a minimum of 1,250 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character.~~

E. The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 1,250 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet.

Section 6.06(G)C be rewritten to read as follows:

~~C. The minimum required building footprint for each dwelling erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character.~~

C. The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks,

and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet.

Section 6.06(H)B2a be rewritten to read as follows:

~~a. The minimum required building footprint for each dwelling erected in this district shall contain a minimum of 750 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks and other additions of such character.~~

a. The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 750 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character.

Section 6.06(I)J be rewritten to read as follows:

~~J. The minimum required building footprint for each modular home or conventional home shall be 850 square feet which shall be exclusive of carports, garages, garage areas, pump houses, unattached utility rooms, porches, steps, and other additions of such character.~~

J. The minimum required heated living space for each modular home or conventional home shall be 850 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character.

**AND THAT**, Section 6.06(K)F be rewritten to read as follows:

~~F. The minimum required building footprint for each building erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of unattached utility room, porches, steps, walks, and other additions for such character.~~

F. The minimum required heated space for each building erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet.



**UDO Amendment Adopted 04/01/19**

Article 11 Signs; Outdoor Advertising Structures is repealed as follows:

**REPEALED:**

**SECTION 11.01 TITLE AND STATEMENT OF PURPOSE**

(A) The purpose of this article is to create the legal framework for a comprehensive and balanced system of signs to:

- (1) Facilitate an easy and pleasant communication between people and their environment and to avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, business opportunities, and community appearance.
  - (2) Preserve the value of property by assuring the compatibility of signs with surrounding land uses.
  - (3) Enhance the overall appearance and scenic value of the landscape and preserve the unique natural environment that distinguishes the Town.
  - (4) Promote the safety of persons and property by regulating the size, type, and placement of signs in an area susceptible to high winds, hurricanes, and extreme weather conditions.
  - (5) Eventually eliminate legal nonconforming signs as expeditiously and fairly as possible. This effort is as much a subject of health, safety, and welfare as is the regulation of new signs.
- (B)
- (1) 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.
  - (2) With these purposes in mind, it is the intent of this article to authorize the use of signs which are:
    - (a) Compatible with their surroundings;
    - (b) Appropriate to the activity that displays them;
    - (c) Expressive of the identity of individual activities and the community as a whole; and
    - (d) Legible in the circumstances in which they are seen.
- (C) Signs are regulated on the basis of the zoning district in which they are displayed, the type of activity displaying the sign, 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.

#### SECTION 11.02 GENERAL STANDARDS

- (A) The regulations in this article specify the number, types, sizes, heights, and locations of signs which are permitted within the zoned districts and which require a permit.
- (B)
- (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.
  - (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.
- (C)
- (1) For signs erected within thirty (30) feet of the edge of the street right-of-way, when the natural grade level of the lot is lower than the grade level of the crown of the road, the sign height shall be the distance from the grade level of the crown

of the road, nearest to the sign, to the top of the sign or sign structure, whichever is greater.

- (2) For signs erected within thirty (30) feet of the edge of the street right-of-way, when the natural grade level of the lot is higher than the grade level of the crown of the road, the sign height shall be the distance from the natural grade level where the sign is erected to the top of the sign or sign structure, whichever is greater.
  - (3) For signs erected farther than thirty (30) feet from the edge of the street right-of-way, the sign height shall be the distance from the natural grade level where the sign is erected to the top of the sign or sign structure, whichever is greater.
- (D) 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.
  - (E) Free-standing signs shall be permitted only on zoned lots with fifty (50) feet or more of street frontage.
  - (F) No free-standing sign shall be erected within fifty (50) feet of another free-standing sign.
  - (G) All wall signs shall be installed parallel to the wall of a building and shall not extend from the wall more than twelve (12) inches.
  - (H) All pole and monument signs shall require a landscape plan as specified in Section 11.09(C).
  - (I) In cases where the regulations within this section do not specifically address a sign requested in conjunction with a permissible use, the UDO Administrator shall make a written interpretation of the Ordinance, which shall be kept in the permanent record for that application.
  - (J) Any permanent sign that is used to attract attention to an object, person, product, institution, organization, business, service, event, or location must be located on premises of that person, business, or organization. Off-premises signs are not allowed within the zoning jurisdiction of Sunset Beach unless otherwise permitted in the Code of Ordinances.

#### SECTION 11.03 RESIDENTIAL AND BUSINESS DISTRICTS STANDARDS BY USE

- (A) Residential District Standards
  - A An indirectly lighted name plate or professional sign not more than 1 square foot in area attached flat against the building shall be permitted in association with an incidental home occupation.
  - B Temporary real estate signs, not exceeding 2 square feet in area, directing the way to premises which are for sale, rent or lease; provided, the signs shall be neatly painted or printed and shall be removed promptly when the property has been sold, rented, or leased.
  - C Directional signs not over 4 square feet in area or 3 feet in total height indicating the location of places of general interest. In lieu of several individual directional signs at critical intersections within a subdivision, one multi-directional sign may be erected not to exceed 32 square feet in area and 6 feet in height.

- D One name sign or bulletin board not exceeding 32 square feet in area and 6 feet in height for any semi-public institution, may be indirectly lighted and shall be setback at least 15 feet from the property line.
- E Temporary non-illuminated signs not exceeding a size of 4 feet by 8 feet and 6 feet in height are allowed with the following limitations:
- 1 One sign for each building site on interior lots.
  - 2 Two signs for each building site on corner lots.
  - 3 Advertising on the sign(s) is authorized to identify the owner of the business or any professions, persons, or organization engaged in or associated with the lawful site construction or alteration.
  - 4 Such sign(s) shall be set back from the property line at least 15 feet or the distance of the minimum front yard and shall be removed 15 days after the completion of work but not later than 15 days after the certificate of occupancy has been issued.
- F Development identification signs announcing the name of a major development of a subdivision, which may include a golf course, may be located on the premises at the principal entrance. Such structures are limited to announcing only the name, subdivision logo, golf course, or complex, with no more than three references to facilities within the development. The letters of the facilities' signs can be only half the size of the subdivision, golf course, or complex's name on the gateway sign.
- G In a major development, no more than two side development identification signs or one median identification sign are permitted at any one principal entrance. Such structures shall not exceed 12 and one-half feet in height. The central section containing the lettering and/or logo is limited to a maximum area of 150 square feet and the total area of the structure, including all supports and supporting structures, such as walls and columns, shall not exceed 600 square feet. If there are side identification signs, one median sign not to exceed 10 square feet in area may be erected.
- H Entrance signs for a subdivision of single-family dwellings and multi-family residential units may be erected with one two-sided median or two one-sided signs on each side of the entrance identical in appearance and construction, with subdivision name only and master subdivision logo permitted.
- 1 The signs, including structures, may not exceed 6 feet in height and 14 feet in length. 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.
- I All development identification signs shall be illuminated by indirect lighting only.
- J Signs indicating seasonal rental by a real estate rental firm or the owner of the residence affixed to residences shall not exceed 3 square feet in area.
- K Temporary signs in residential districts shall be governed according to Section
- L Temporary non-illuminated signs announcing a new subdivision, located on the premises, shall not exceed 32 square feet in area and 6 feet in height. Display of such signs shall be limited to one. The sign shall be restricted to the name of the subdivision and developer information. After 6 months time, the sign will lose its temporary status and will become subject to all applicable rules of this Ordinance.

(B) Business District Standards

A Any sign erected within 100 feet of a residential zoned district shall be non-illuminated and limited to 16 square feet in area and 5 feet in height.

B Zoned lot(s) with 1 to 4 establishments may erect signs as follows:

- 1 Permitted Number (one establishment lots):
  - a Interior Lot. Maximum of 2 signs but, in no case, shall 2 freestanding signs be allowed on the same zoned lot.
  - b Corner Lot. Maximum of 4 signs but, in no case, shall more than 2 freestanding signs be allowed on the same zoned lot; 1 multi-faced sign may be used in the place of the 2 freestanding with a maximum of 3 signs.
- 2 Permitted Number (1 to 4 establishment lots):
  - a One freestanding sign per street fronting the lot, not to exceed a total of 2 signs identifying the name of the complex. One multi-faced sign may be used in the place of the 2 freestanding signs.
  - b The name of any major establishment within the complex may serve as the name of the entire complex. As well as identifying the name of the complex, the sign may identify individual establishments within the complex.
  - c In addition, each establishment may erect 1 and each corner establishment 2 additional wall, projecting, awning, canopy, or marquee signs.
- 3 Permitted Types:
  - a Administrative Approval: Wall, monument, pole, or projecting.
  - b Planning Board Approval: Awning, canopy, or marquee.
  - c Multi-faced: The sign area may be 32 square feet on each side. Signs greater than 4 sides must not exceed total sign area of 128 square feet.
- 4 Maximum Size and Height:
  - a Wall or marquee:
    - i One square foot per one linear foot of building frontage on which sign(s) are attached. If a freestanding sign is not erected, sign area may be increased by one-third, but not to exceed 100 square feet maximum.
    - ii Top of sign(s) shall be a minimum of 12 inches below the roof line.
    - iii Top of sign shall be below the roofline and no higher than 20 feet above ground level.
  - b Pole or monument:
    - i A maximum of 32 square feet with the top of the sign not to exceed 6 feet in height.
  - c Projecting:
    - i One square foot per two linear feet of building frontage on which sign(s) are attached. Not to exceed 12 square feet maximum.
    - ii Top of sign shall be below the roofline and no higher than 16 feet above ground level.
    - iii Bottom of sign shall be no less than 8 feet above the ground.

- iv Projecting signs shall not project from the exterior wall of a building more than 4 feet.
  - d Awning or Canopy:
    - i One square foot per 2 linear feet of awning or canopy. Not to exceed 16 square feet maximum.
    - ii No awning or canopy sign shall extend above the top of the awning or canopy.
    - iii Maximum height of sign letters shall be 18 inches.
- B Shopping centers with 5 or more establishments planned as an integrated development shall be authorized to erect signs based on the following criteria. Signs for out-parcel establishments in a shopping center will be governed by the same requirements as zoned lots with 1 establishment.**
- 1 Permitted Number:
    - a Center Identification Signs:
      - i One freestanding sign per street fronting the center, not to exceed a total of 2 signs, identifying the name of the center. One multi-faced sign may be used in place of the 2 freestanding signs.
      - ii The name of any major establishment within the center may serve as the name of the entire center. As well as identifying the name of the center, the sign may identify individual establishments within the center.
    - b Individual Establishment Signs: No freestanding sign shall be displayed for individual establishments located within a center. Any establishment may display one sign per street frontage, up to a maximum of 2 signs.
  - 2 Permitted Types:
    - a Administrative Approval: Center identification, pole, monument, wall, or projecting.
    - b Planning Board Approval: Awning, canopy, or marquee.
    - c Multi-faced: The sign area may be 32 square feet on each side. Signs greater than 4 sides must not exceed total sign area of 128 square feet.
  - 3 Maximum Size and Height:
    - a Wall or marquee:
      - i One square foot per one linear foot of building frontage of each establishment, on which the sign(s) are attached; not to exceed 100 square feet maximum.
      - ii Top of sign(s) shall be a minimum of 12 inches below the roof line.
    - b Pole or monument (center identification):
      - i 75 square feet for shopping centers with 24,000 square feet or less of gross building floor area.
      - ii Top of sign shall not exceed 20 feet in height above ground.
      - iii One hundred square feet for shopping centers with more than 24,000, but less than 48,000 square feet of gross building floor area.

- iv 150 square feet for shopping centers with 48,000 square feet or more of gross building floor area.
  - v The bottom of pole signs shall be no more than 2 feet above the ground.
  - c Projecting (center identification):
    - i One square foot per 2 linear feet of building frontage on which sign(s) are attached. Not to exceed 12 square feet maximum.
    - ii Top of sign shall be below the roofline and no higher than 16 feet above ground level.
    - iii Bottom of sign shall be no less than 8 feet above the ground.
    - iv Projecting signs shall not project from the exterior wall of a building more than 4 feet.
  - d Awning or Canopy (center identification):
    - i One square foot per 2 linear feet of awning or canopy; not to exceed 16 square feet maximum.
    - ii No awning or canopy sign shall extend above the top of the awning or canopy.
    - iii Maximum height of sign letters shall be 18 inches.
- C Office centers planned as an integrated development shall be authorized to erect signs based on the following criteria:
- 1 Permitted Number:
    - a Center Identification Signs: One freestanding sign per street fronting the center, not to exceed a total of 2 signs, identifying the name of the center only. One multi-faced sign may be used in the place of the 2 freestanding signs.
    - b Individual Building Signs: Where an office center is comprised of two or more buildings, each individual building may erect one freestanding sign identifying the establishments within the building.
    - c Individual Establishment Signs: Each individual establishment within an office building may erect one wall sign.
  - 2 Permitted Types: All signs must have administrative approval.
    - a Center Identification:
      - i Freestanding
      - ii Multi-faced: The sign area may be 32 square feet on each side of a four-sided sign for a maximum total sign area of 128 square feet. Multi-face signs greater than four sides must not exceed total sign area of 128 square feet.
    - b Individual building: Freestanding.
    - c Individual establishments: Wall.
  - 3 Maximum Size and Height:
    - a Wall:
      - i One square foot per 2 linear feet of building frontage on which sign(s) are attached; not to exceed 12 square feet maximum.

- ii Top of sign shall be below the roofline and no higher than 12 feet above ground level.
  - b Pole or monument (center identification):
    - i Maximum area 32 square feet.
    - ii Maximum height: 6 feet.
    - iii The bottom of pole signs shall be no more than two feet above the ground.
  - c Pole or Monument (individual buildings):
    - i Maximum Area: 20 square feet.
    - ii Maximum Height: 4 feet.
    - iii The bottom of pole signs shall be no more than 2 feet above the ground.
  - d Projecting, awning, marquee, or canopy: Not allowed.
- D Window signs and/or displays, which otherwise comply with this section may be displayed provided no more than one-quarter of the area of a window or door may be obstructed by the same.
- E Gasoline Stations:
  - 1 Automobile service and gasoline stations shall comply with all applicable sign regulations within this section, including the regulations for shopping centers, if applicable.
  - 2 The following additional regulations shall apply to all automobile service and gasoline stations:
    - a Price signs: one of the permitted signs may be up to 25 square feet in area, regardless of the building frontage and may include changeable copy or light emitting diode (LED) indicating the current price of fuel dispensed on the premises.
    - b Gas pump signs: each gas pump shall be permitted a total of one square foot of sign area to identify the product dispensed.
- F Information and directional signs may be erected at locations approved by the Town Council for the purpose of assisting tourists in achieving their destination and improving traffic flow.
  - 1 The Town Council at its discretion will determine the number, type, size, and location of all information and directional signs.
  - 2 Information and directional sign locations may be added or deleted with Town Council approval.
  - 3 Type "A" locations will be limited to major highway intersections or locations of high visibility to provide maximum directional benefit. Signs erected at these locations will contain two types of information separated by a blank individual sign board:
    - a The first type of information will be of a generic nature such as Town services, post office, and the like.
    - b The second type of information will provide directions to golf courses and other major attractions and a mileage indicator, where appropriate.
  - 4 Criteria for golf course listings will require:

- a Listing as an approved PGA course or located within 5 miles of the Town zoning jurisdiction.
  - 5 Type “B” locations may be designated along major highways to support Type “A” signs by providing more specific directions at significant departure or entrance points.
- G Theaters:
  - 1 Theaters are authorized to erect one of the permitted signs with a changeable copy board displaying the name(s) and time(s) of the current motion picture(s) or theatrical production(s).
- H Sandwich Board Signs:
  - 1 Must be removed at the conclusion of business hours.
  - 2 Shall be limited to no more than 3 feet in height and 2 feet in width.
  - 3 Shall not block access to any establishment, business, or sidewalk.
  - 4 Shall not be placed in the right-of-way.

#### SECTION 11.04 SPECIAL SIGN DISTRICT STANDARDS

- (A) Any subdivider, developer, or owner of an area desiring for their property to be classified as a Special Sign District under this section may apply to the Planning Board for the designation; further designation of an area as a Special Sign District must be approved by the Town Council. Thereafter, approval and denial of requested additions and changes to signage within the Special Sign District would only require the approval of the Town Planning Board and given to the Town Council for information.
- (B) The following information must be submitted with the application, which shall be signed by the owners of property in the proposed district:
  - (1) Name(s) and address(es) of the owner(s) of the property to be designated as a Special Sign District.
  - (2) Perimeter description of the area to be designated as a Special Sign District.
  - (3) Justification of need for designation as a Special Sign District (Justification should include clarification and/or evidence of the unique character and special development potential of the area, description of how the designation would preserve and enhance the unique character of the area, including clarifications as to how the designation would cause no disturbance to neighboring property and promote the best interests of the Town.)
  - (4) Any additional information deemed necessary and relevant by the Planning Board.
- (C) The Planning Board shall review the application and shall within thirty (30) days of the receipt of the application recommend to the Town Council whether or not the area should be designated as a Special Sign District. Before recommending designation as a Special Sign District, the Planning Board must find:
  - (1) The area possesses unique character and special development potential.
  - (2) The designation would preserve and enhance the unique character of the area.
  - (3) The designation would cause no disturbance to neighboring property lying outside of the proposed district.
  - (4) The designation would promote the best interest of the Town.

- (D) Upon recommendation for approval from the Planning Board, the Town Council shall conduct a public hearing on the request. The Town Council shall designate the area as a Special Sign District, upon finding the following:
  - (1) The area possesses unique character and special development potential.
  - (2) The designation would preserve and enhance the unique character of the area.
  - (3) The designation would cause no disturbance to neighboring property lying outside of the proposed district.
  - (4) The designation would promote the best interest of the Town.
- (E) Upon designation of an area as a Special Sign District, the Planning Board shall have the power and authority to review and approve all proposed signs in the district subject to the following submission and criteria requirements:
  - (1) Submission of the following information on requested change and additions of signage to the Planning Board:
    - (a) Detailed designs of all proposed signs including the size, height, copy, materials, and colors of the signs. All signs shall be coordinated in terms of design features with existing signs within the district.
    - (b) Illustration of proposed locations and number of proposed signs.
    - (c) Sign illumination plans.
    - (d) Plans for landscaping or architectural features to be used in conjunction with the plans.
  - (2) The maximum height of an attached sign does not exceed twelve (12) feet, except for locations along a major thoroughfare where the height does not exceed sixteen (16) feet.
  - (3) Multi-information directional signs are encouraged and located within the interior of a development.
  - (4) Changeable copy highlighting special events on signs for cultural, civic, or recreational facilities shall not exceed twenty-five percent (25%) of the face area of a sign.
  - (5) Two (2) banners will be allowed for special events.
  - (6) Signs designating a subdivision within the Special Sign District.
  - (7) Special Sign Districts may impose sign regulations which are in addition to those provided for elsewhere in the Ordinances of the Town.
  - (8) Signs needed for direction and information pertinent to the Special Sign District may be erected within the right-of-way upon approval by the Planning Board.
- (F) No sign may be erected, installed, or allowed to continue to exist in a Special Sign District, except with the approval of the Planning Board.

#### SECTION 11.05 LEGAL NONCONFORMING SIGNS

- (A) Any sign legally in existence prior to the effective date of this Ordinance which does not satisfy the requirements of this Ordinance or any subsequent amendment to this Ordinance is declared legally nonconforming.
- (B) Any sign in existence on any property or area annexed into the Town limits or its Extraterritorial Jurisdiction (ETJ) that does not satisfy the requirements of this Ordinance would also be declared legally nonconforming.

- (C) Any nonconforming sign existing on the effective date of this Ordinance or subsequent amendment to this Ordinance thereof may remain and be maintained for three (3) years after the effective date or for any property or area annexed into the Town limits or its Extraterritorial Jurisdiction (ETJ), may remain and be maintained for three years from the date of annexation, subject to the following requirements:
  - (1) No nonconforming sign shall remain if the business is sold or if the present owner changes to a different type of business. All signage shall conform to the provisions of this Ordinance or be removed.
  - (2) No nonconforming sign may be rebuilt if the physical structure is damaged more than fifty percent (50%).
  - (3) No nonconforming sign may be allowed to become dilapidated or structurally unsound.
  - (4) No nonconforming sign may be altered in any way in structure or relocated to a different position.
- (D) Any sign that does not conform at the end of the three (3) year period shall be considered an illegal sign and must be removed or brought into compliance at that time.

#### SECTION 11.06 ILLEGAL AND PROHIBITED SIGNS

- (A) Nothing contained in this section shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of this or any prior Ordinance of the Town. Moreover, signs erected, maintained, or altered in violation of this or any prior Ordinance shall be removed as provided in this section.
- (B) The violation of the provisions of this section by any person is declared to be contrary to the public health, safety, and welfare of the community and the purpose of this Ordinance. Upon ascertaining a violation of the provision of this Ordinance, the UDO Administrator shall cause to be served upon the offender or his or her agent and the owner or his or her agent or the occupant(s) of the premises, a written notice to abate which shall:
  - (1) Describe the violation under this Ordinance.
  - (2) Revoke the permit.
  - (3) Require removal within thirty (30) days of the notice.
  - (C) If the UDO Administrator is unable to give personal notice after diligent and documented effort to do so, the notice may be affixed in a conspicuous manner upon the illegal sign.
- (D) In the event that the sign is not removed or brought into compliance as ordered, the Town may proceed pursuant to Section 1.12.
- (E) Temporary Signs.
  - (1) For temporary, portable or window signs erected in violation of this section, including "open house" and real estate signs, the UDO Administrator will verbally contact the offender, or his/her agent, and the owner, or his/her agent, or the occupant(s) of the premises, and request that the illegal signs be removed immediately. In the event that the UDO Administrator is unable to give notice orally, the UDO Administrator shall notify said persons by mailing written notice by first class mail to their last known address. All persons receiving notice,

- whether orally or in writing, shall remove said signs within forty-eight (48) hours, if oral notice, or within ninety-six (96) hours of mailing, if notice is given by mail.
- (2) The UDO Administrator may physically remove any temporary or portable sign located outside a building maintained in violation of this section if the offender, or his/her agent, or owner, or his/her agent, or the occupant(s) of the premises do not remove said sign in accordance with paragraph A (1) above.
  - (3) Any sign placed in the public right-of-way in violation of this section shall be deemed a public nuisance and may be seized by the UDO Administrator or other representative of the Town, and the person owning or placing the sign in said right-of-way will be charged both with a violation of this section and with the cost of removing and disposing of the sign. A notice that the sign has been seized will be given orally or in writing to the offender or his/her agent, or the owner, or his/her agent, or the occupant(s) of the premises who will have seventy-two (72) hours from said notice to pay the cost and recover the seized sign. In the event that said persons do not pay the cost to recover a seized sign as set forth herein, the Town may dispose of said sign in accordance with applicable law.
- (F) Except as may be hereinafter specifically permitted, it shall be unlawful to erect or maintain any signs that:
- (1) By color, location, or design resemble an official regulatory sign or that carry the words "STOP," "GO," "SLOW," "DANGER" and the like which might be confused with traffic direction signs or signals or that could be distracting to a motor vehicle operator.
  - (2) Obstruct the line of sight of motorists at intersections, driveways, or along any right-of-way between a height of two (2) feet and ten (10) feet.
  - (3) Include flashing, intermittent, moving or animated lights.
  - (4) Have visible moving or movable parts or any device giving the appearance of animation.
  - (5) Emit a sound, odor, or visible matter.
  - (6) Are lettered, outlined, or otherwise decorated with any reflecting paint, beads, or prisms unless erected by a governmental agency.
  - (7) Are attached to or painted on any telegraph pole, telephone, light pole, fence post, or any other man-made objects not intended to support a sign, or on any tree, rock, or other natural objects.
  - (8) Obstruct free ingress and egress to any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress for any room, building, or structure.
  - (9) Violate any provision of any law of the State of North Carolina.
  - (10) Advertise an activity, business, product, or service which does not currently relate directly to the premises upon which the sign is located, for the purpose of identifying the location of the premises. The only exception is where a church or civic organization is located within the zoning jurisdiction of the Town and is located away from a main thoroughfare (such as N.C. 179 and N.C. 904) where a directional sign would benefit visitors to the area. The signs shall not exceed four (4) square feet in area and must be approved by the UDO Administrator.

- (11) Are located on any roof of any building or structure.
- (12) Are located within any street right-of-way or any required sight visibility triangle, as defined in Appendix A.
- (13) Are located in any salt marsh areas or on any land subject to periodic inundation by tidal saltwater, except when erected by a governmental agency.
- (14) Exhibit statements, words, or pictures of obscene or pornographic subjects.
- (15) Are portable, sidewalk, and sandwich signs.
- (16) Are swinging signs.
- (17) Are banners, pennants, ribbons, streamers, spinners, strings of light bulbs, or any animated, rotating, fluttering, or non-stationary device made of flexible materials designed to attract attention, with the exception of those allowed by Sections 11.04 and 11.08.
- (18) Are abandoned or dilapidated.
- (19) Are flags of the United States or any state displayed as part of a commercial promotion. When displayed, the flag shall be allowed to hang free and never draped or tied back.
- (20) Are mobile Signs. No sign shall be placed on a vehicle or trailer which is parked or located for the primary purpose of advertising and/or displaying said sign. This does not apply to lettering on buses, taxis, or vehicles operating during the normal course of business.
- (21) Are inflatable advertising billboards.
- (22) Are inflatable floating advertising billboards.
- (23) Are snipe signs, as defined in Appendix A.

#### SECTION 11.07 PERMITS

- (A) After the effective date of this Ordinance, no sign shall be erected, significantly altered, replaced, or relocated unless a permit has been obtained from the UDO Administrator in accordance with this section.
- (B) All existing signs must also obtain permits in conformity with this section and with Section 11.05 on legal nonconforming signs.
- (C) Whenever applicable, sign permit applications for any sign encroaching the air space of Town property, public right(s)-of-way or easement(s) shall be accompanied by a properly executed encroachment agreement approved by the Town. No applicable sign permit shall be issued until the agreement has been executed by the owner of the sign and the Town's UDO Administrator.
- (D) Each candidate for political office, or his or her local representative in the case of State-wide or national offices, shall apply for a general permit for all personal campaign signs, indicating that the candidate is aware of all Town regulations concerning political signs, that all supporters receiving said signs will be advised of these Ordinances and encouraged to follow them, and that said signs shall be removed as required by these Ordinances. Political or campaign signs shall be subject to the following conditions:
  - (1) Signs shall not be placed in the roadway right-of-way and must be located outside the site visibility triangle.

- (2) Signs shall not be attached to trees, fences, street signs, utility poles, and cannot be located in the marsh.
- (3) Signs shall be limited to a maximum of nine (9) square feet in area and six (6) feet in height.
- (4) Signs shall be removed within seven (7) days following the election.
- (E) No permit shall be issued unless all of the requirements contained in this Ordinance have been met and the following steps completed.
  - (1) An application provided by the Town must be filed with the UDO Administrator. This application shall contain the following information:
    - (a) The sign owner's name, address, and telephone number and, if different, the name of the person in possession of the premises where the sign is located or is to be located.
    - (b) The name, address and telephone number of the person who will be performing the work requested.
    - (c) Location and zoning designation of the parcel on which the sign is and/or will be located.
    - (d) A unified sign plan for any site with multiple establishments.
    - (e) Any other information the UDO Administrator shall require to ensure compliance with this and all other applicable Town Ordinances.
  - (2) No permit shall be issued unless the applicant has paid the requisite fees established by the Town Council.

#### SECTION 11.08 EXEMPTIONS

- (A) Sign permits shall not be required for the following:
  - (1) Address and Name of Residence. A sign indicating address and/or name of residence or occupants of the premises, not exceeding four (4) square feet in area and not including any commercial advertising or identification.
  - (2) Decals. Decals affixed to windows or door glass panes, such as indicating membership in a business group or credit cards accepted at the establishment.
  - (3) Directional Signs. Signs giving on-site directional assistance for the convenience of the public, not exceeding four (4) square feet in area and four (4) feet in height. Directional signs may be internally lit or illuminated by white light only.
  - (4) Flags, Insignia, and the Like. Flags, emblems, and insignia of any governmental agency or religious, public or nonprofit organization, subject to the following: no single flag that is flown shall exceed forty (40) square feet in area and no single zoned lot shall fly more than three (3) flags. If the total area of the flags exceeds seventy-two (72) square feet, the excess area shall be included in the sign area calculations to the zoned lot. Flagpoles shall not exceed twenty-five (25) feet in height. Wall-mounted flags, emblems or insignia shall be limited to one (1) per zoned lot and shall not exceed forty (40) square feet in area.
  - (5) Handicapped Parking Space Signs. Signs not exceeding two (2) square feet in area reserving parking spaces for handicapped motorists.
  - (6) Home Occupation Signs. On-premise identification signs for home occupations shall not exceed one (1) square foot in area and shall contain only the name of the

business and/or business owner. The signs shall be located on an exterior wall, window, or door of the premises.

- (7) Private Drive Signs. On-premises private drive signs limited to one (1) per drive entrance, not exceeding two (2) square feet in area, with language limited to the words "Private Drive" and the address of any residences utilizing the private roadway.
- (8) Public Signs. Signs erected by government agencies or utilities including traffic, utility, safety, railroad crossing, and identification signs for public facilities and any signs erected by the locality's government or under the direction of the governmental agencies or utilities.
- (9) Security and Warning Signs. On-premise signs regulating the use of the premises such as "no trespassing," "no hunting," and "no soliciting" signs that do not exceed two (2) square feet in area in residential areas and five (5) square feet in business areas.
- (10) Temporary Real Estate Signs. Temporary signs indicating the availability of real property for lease or sale located on the premises being leased or sold. Display of the signs shall be limited to one (1) per property not exceeding six (6) feet in height and not exceeding four (4) square feet in area in residential zones and eight (8) square feet in area in all other zones. The signs shall be removed within seven (7) days of the settlement or lease of the property. Signs that advertise ongoing or continuous rental or lease of premise/property, and are not temporary in nature and not subject to Section 11.03(A), will, after six (6) months time, lose their temporary status and will become subject to all applicable rules of this article.
- (11) Temporary Event Signs. Temporary events are defined as town-permitted, short-term events focused around activities conducted upon a specific business site or individual property that do not involve use of public facilities, staff, or the use or closing of streets. Examples of such activities include, but are not limited to, business grand openings, yard sales, fund raising events, auctions, or events sponsored by religious, charitable, or public services groups. Signage for such events are subject to the following standards.
  - (a) One temporary non-illuminated sign not exceeding thirty-two (32) square feet in area publicizing a specific event of general public interest is allowed per street frontage.
  - (b) For yard or garage sales, no more than two (2) off-site directional yard sales/garage sales signs may be permitted, only during the hours the sale is actively being conducted and each sign shall not exceed 4 sq. ft. in area.
  - (c) For all other temporary events as classified in this section Signs shall be allowed to be erected for up to 30 days following the initial placement of the sign. After 30 days, the signs shall be removed.
  - (d) No signs may be placed in the public right-of-way or on public facilities. Signs shall be -placed only on private property.
- (12) Special Event Signs. 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.

- (a) All temporary banner signs may be erected no more than 2 weeks prior to the event and shall be removed no later than 24 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.
- (b) No event shall display more than 200 cumulative square feet of total signage area, including all off-site and on-site signage allowed under this Section.
- (c) No event shall display more than the allowable signs as detailed below.
  - i. Up to two signs may be located on the lot hosting the event for the allowable display period. The display period shall be 2 weeks prior to the event and the duration of the event up to 25 weeks. This sign may be a banner sign if it is securely fastened and adequately vented to prevent uplifting. These signs shall be no larger than 32 square feet each.
  - ii. One sign may be a banner sign posted at each of the “Town of Sunset Beach” town entrance visibility of the entrance signs. These signs may be placed up to 2 weeks prior to the event and shall be removed within 24 hours following the conclusion of the event.
  - iii. Off-site directional signs to the event may be displayed in different locations, but not in a driveway or intersection sight triangle. These signs must be of rigid construction (not banner signs) and may not exceed 6 square feet in area. These signs may be placed the day before the event and must be removed the day after the event. These signs shall only be placed for day events. The sign locations must be included in the permit application materials and be approved by the Town.
  - iv. Off-site banner signs for the event may be displayed in different locations, but not in a driveway or intersection sight triangle. Each sign shall not exceed 32 square feet in area and be located on private property.
- (B) No exempt sign may be placed in the public right-of-way.
- (C) The violation of the provisions of this article by any person is declared to be contrary to the public health, safety and welfare of the community and the purpose of this article.

Upon ascertaining a violation of the provision of this article, the UDO Administrator shall cause to be served upon the offender or his or her agent and the owner or his or her agent, or the occupant(s) of the premise, a written notice to require removal within five (5) days of the notice. If the UDO Administrator is unable to give personal notice, the notice may be affixed in a

conspicuous manner upon the illegal sign. In the event that the sign is not removed or brought into compliance within five (5) days as ordered, the UDO Administrator will cause the sign to be removed. The owner will incur the expense of removal if corrective action is taken by the UDO Administrator.

#### SECTION 11.09 CONSTRUCTION AND MAINTENANCE

- (A)
  - (1) Every sign and its supports, braces, guys, anchors, and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept free from defective or missing parts or peeling paint and shall be able to withstand wind. In addition, all signs shall be legible, easily readable, neatly painted or printed, and maintained in a clean and attractive condition.
  - (2) The UDO Administrator or his or her representative shall possess the authority to order the painting, cleaning, repair, or alteration of a sign which constitutes a hazard to the health, safety or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment. Notice to the owner shall be by personal service or registered mail, return receipt requested. In the event that the UDO Administrator is unable to give personal notice after a diligent and documented effort, the notice may be affixed in a conspicuous manner upon the sign. In the event that corrective action is not timely taken as ordered, the Town may proceed pursuant to Section 1.12.
- (B) The immediate premises around a sign shall be kept free from debris and may be required to be appropriately landscaped. However, no person may damage, trim, destroy, or remove any trees, shrubs or other vegetation located within the right-of-way of any public street or road for the purpose of increasing or enhancing the visibility of any sign. Nor shall such work be performed on property that is not under the ownership or control of the person performing or responsible for the work unless done pursuant to the express authorization of the person owning the property where the trees or shrubs are located.
- (C) Sign landscaping plans must meet or exceed the following minimum requirements:
  - (1) 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.
  - (2) Pole signs require both primary shrubs and/or plants and low growing plants and/or ground cover. The primary shrubs and/or plants for a pole sign shall be at least two (2) feet in height at the time of planting and shall be planted two (2) feet or less apart on centers. The low growing plants and/or ground cover shall be planted thirty-two (32) inches or less apart on centers.
  - (3) Monument signs are only required to have low growing plants and/or ground cover that shall be planted thirty-two (32) inches or less apart on centers.
  - (4) All signs requiring landscaping shall use a decorative mulch as part of the landscaping plan.
  - (5) The landscaping shall be adequately maintained. Any landscaping shrub or plant that appears to be damaged should be replaced on a continuing basis or the sign will be considered as an illegal sign.

- (6) The Planning Board may modify these landscaping requirements when the owner of the sign can demonstrate that the owner's landscaping plan will achieve the intent of this section of the article.
- (D) Any sign permitted under this chapter must comply with any applicable requirements of the building code, electric safety code, and other applicable Federal, State, or locality codes.
- (E) If removal of a sign is required, removal of the sign means removing the face of the sign and the brackets, frame, base, and/or structure of the sign.

**REPLACED WITH:**

**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.

### **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 160A-381(j).
- (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:  
The aggregate sign face area for all safety signage on a lot shall not exceed thirty-two (32) square feet.
  - (1) No single safety sign shall exceed four (4) square feet of sign face area.
  - (2) 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).
  - (3) The top of a safety sign shall not be greater than five (5) feet above the adjacent grade.
  - (4) 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.

(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.
- (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
- (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 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.
  - (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, 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 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.

### ***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.
  - (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.

Appendix A. Definitions was amended with the addition and alteration of the definitions section as follows in alphabetical order:

#### ***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



**UDO Amendment Adopted 05/06/19**

Article 7 Supplemental Regulations, Section 7.09 Fences, Subsection (B) Single Family Residential is amended to add (8) as follows:

- (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.



**UDO Amendment Adopted 08/05/19**

Article 10 titled Landscape & Buffering Requirements Section 10.02 titled General Landscaping and Submittal Requirements, Subsection (B) titled General Landscaping Requirements (4) is repealed and replaced as follows:

(4) Ground cover is mandatory on all portions of exposed ground or earth not occupied by other approved landscape material.

**(a) The use of nonbiodegradable, manmade mulch is an approved landscape material as long as the following conditions are met (this includes recycled tire mulch and other rubberized products):**

- (1) This material shall not be located in the BR-1, BR-2, BB-1, or CR-1 zoning districts;**
- (2) This material shall not be used within the Limit of Moderate Wave Action (LiMWA) as defined in Appendix A and regulated under Article 12 Part I;**
- (3) This material shall not be placed within thirty (30) feet of a water body; and**

**(4) This material shall be placed inside a landscaping boarder or barrier. The barrier must be of sufficient height so that the top of the barrier is at a minimum of six (6) inches higher than the material.**



### **UDO Amendment Adopted 10/07/19**

UDO Article 10 titled Landscape & Buffering Requirements Section 10.02 (C) General Landscaping and Submittal Requirements, Section 10.04 Interior Landscaping, Section 10.05 Residential Landscaping Requirements and Appendix A. 3 Definitions, is hereby amended as follows:

#### **1. Add the following to Section 10.02 General Landscaping and Submittal Requirements**

##### ***(C) Parking lot Screening***

Location and required usage: Perimeter yard of all parking and loading areas for all parking lots.

This landscaping type functions as a semi-opaque screen from the ground to at least a height of four (4) feet within 3 years of planting for the screening of car lights, containing trash inside parking lots and reducing light trespass. This buffer may consist of planted or existing vegetation.

1. Shrubs shall be, at time of planting, in a minimum seven (7) gallon container and shall be planted with no opening wider than four (4) feet.
2. At least seventy-five (75) percent of required shrubs shall be evergreen species

#### **2. Amend Section 10.04 Interior Landscaping (C) Interior Planting Areas (4) to read as follows:**

(4) All interior plantings, including islands, shall be curbed or blocked for protection unless islands are being utilized for stormwater purposes.

#### **3. Add the following to Section 10.05 Residential Landscaping Requirements**

##### ***(B) Subdivision Street Tree Canopy***

Location and required usage: Along all residential subdivision street frontages

This type functions as a unifying element along all street frontages by establishing an attractive and consistent streetscape. Street trees soften the transition from the street to the private yard and provide shelter to the pedestrian and vehicular traffic. Street trees also reduce stormwater impacts by keeping surfaces cooler and slowing down run-off.

1. Small canopy trees shall be spaced twenty-five (25) foot on center.
2. Large canopy trees shall be planted at a maximum of forty-five (45) feet on center
3. Planting strip for street trees shall be a minimum of (six) 6 feet wide
4. Street trees shall be located behind all road side ditches
5. If a sidewalk is present trees shall be located between the pavement and the sidewalk.
6. All sight triangles and distances must be maintained.
7. Preservation of existing trees is encouraged.
8. Tree Spacing may be adjusted to avoid conflict with utilities provided the number of trees being planted does not get reduced the standard spacing requirement.
9. Street trees do not count towards a lots required landscaping.
10. Trees Shall come from Appendix C of the Unified Development Ordinance

**(C) Maintenance of landscaping along or in street right-of-way.**

(a) Trees not planted in the right of way by the Town are the developer and owner's obligation under this section and include at a minimum all of the following and must be included in the covenants for any development.

(1) Maintaining the street trees and other landscaping in a good and safe condition as will not interfere with the public convenience or safety in the use of the street and sidewalk, including:

(A) Ensuring sufficient passage of light from any street light to the street;

(B) Ensuring a clear height of fourteen (14) feet above the surface of the street or sidewalk unobstructed by branches;

(C) Ensuring street signs, parking restriction signs, bus stop signs, and other directional and regulatory signs are not obstructed; and

(D) Removing dead, decayed, or broken limbs or branches that overhang the public right-of-way.

(2) Deep root watering, root pruning, installing root barriers, fertilizing, and pest control.

(3) Clearance, structural, and safety pruning.

(4) Removal of fallen leaves, branches and other debris.

(5) Replacing any removed or otherwise missing street tree as may be required by UDO, another ordinance or regulation.

(6) Replacing any removed or otherwise missing landscaping if the landscaping was required to be planted by this code or an approved development plan.

(b) An owner owes a duty to members of the public to maintain street trees and other landscaping along the street frontage or in the street right-of-way adjacent to the owner's property in a safe and non-dangerous condition.

(c) If an owner fails to maintain street trees and other landscaping in a safe and non-dangerous condition as required by this section, and a person suffers damage or injury to person or property, the owner shall be liable to the person for the resulting damages and injuries.

(d) The Town of Sunset Beach shall have a cause of action for indemnity against a property owner for any damages it may be required to pay as satisfaction of any judgment or settlement of any claim from injury to persons or property as a legal result of the owner's failure to maintain a street tree in accordance with this section.

(e) A Homeowners Association, Property owners Association Condominium Association or any variation thereof may take responsibility of the tree plantings in lieu of the individual homeowners provided it is appropriately spelled out in the associations organizing documents.

(f) The Town reserves the right to maintain or remove any tree at its discretion in any public right of way

**4. Add the following to Section 10.05 Residential Landscaping Requirements (A) Minimum Landscaping Standards (2) Table 10-2:**

Table 10-2. Point-based ~~planting~~ landscape matrix

Material Type	Point Value
3 or more existing trees	10
Large Tree (20 gallon min.)	6
Small to Medium Ornamental Tree (10/15 gal. min.)	4
New Large Shrub (10 gallon min.)	3
New Medium Shrub (5 gallon min.)	2
New Small Shrub (3 gallon min.)	1
Sod	3
Irrigation System <b>with rain sensor</b>	3
Utilizing Xeriscaping Methods	3
<b>Rain Garden</b>	<b>10</b>
<b>Rain Barrels</b>	<b>7</b>
<b>Converting existing septic tank into stormwater cistern</b>	<b>10</b>
<b>Other LID techniques not specifically listed</b>	<b>7</b>
<b>Solar Panels</b>	<b>5</b>

\* Required street trees may not be used to fulfill this requirement. All trees required under this section shall be planted within the private lot.

**5. Add the following to Appendix A. 3 Definitions**

**Canopy Tree**

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

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



**UDO Amendment Adopted 12/02/19**

**1. UDO Article 6 titled Zoning Districts specifically Various Sections in 6.06 Zoning District Development Standards be amended as follows:**

**Amend Article 6.06 (A) MR-1:**

~~K—The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 1,800 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet.~~

Reserved

**Amend Article 6.06 (B) MR-2:**

~~K—The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet~~

Reserved

**Amend Article 6.06 (C) MR-3:**

(C) MR-3 Mainland Multi-Family Residential District.

A Minimum Required Mean Lot Area for any Multi-Family Project: 40,000 sq. ft.

B Minimum Required Mean Lot Area for any Single-Family Project: 7,500 sq. ft

C Minimum Required Floor Space:

~~1 For single family residential dwellings, the building footprint of the structure, exclusive of carports, garages, decks, porches, utility rooms or attendant buildings: 1,000 square feet.~~

~~2 Any dwelling unit in a multi-family building: 750 square feet~~

**Amend Article 6.06 (F) BR-1:**

A Minimum Required Mean Lot Area per Dwelling: 7,500 sq. ft.

B Minimum Required Rear Yard: Not less than 25 feet from the property line abutting the Main Street right-of-way.

C Minimum Required Side Yard: 10% of the lot width on each side; except where a walk is next to a public walk to the beach, which may have a 5 foot setback. A lot (property) owner of record at the time of enactment of this provision shall have a minimum side yard setback of 5 feet on both sides.

D Height of Building: No building or structure shall be more than 35 feet in height.

~~E The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 1,250 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet.~~

Reserved

F Required Building Lot Area. For the purposes of determining required building lot area for lots located southward of Main Street, the depth shall be limited to no more than 150 feet from the property line abutting the right-of-way of Main Street

**Amend Article 6.06 (G) BR-2:**

A Minimum Required Mean Lot Area Per Dwelling: 4,500 sq. ft.

B Minimum Required Rear Yard: 5 feet.

~~C The minimum required heated living space for each dwelling erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet~~

**Amend Article 6.06 (I) MH-1:**

I The minimum size of manufactured homes shall be as follows:

~~1 Single-wides not less than 12 feet in width and 50 feet in length, double-wides not less than 24 feet in width and 36 feet in length.~~

~~12 No more than one manufactured home may be placed on any lot and no additions or combinations or previously manufactured homes shall be joined or attached together. for the purpose of meeting these minimum size requirements.~~

**Amend Article 6.06 (J) MH-2:**

~~I The minimum size of double-wide manufactured homes shall be not less than 24 feet in width and 36 feet in length.~~ Reserved

**Amend Article 6.06 (K) RI-1:**

~~F The minimum required heated space for each building erected in this district shall contain a minimum of 1,000 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character. The minimum building footprint required for each dwelling erected shall be 750 square feet.~~

Reserved

**Amend Article 6.06 (L) AF-1:**

~~K The minimum required building footprint for each dwelling erected in this district shall contain a minimum of 1,800 square feet which shall be exclusive of carports, garages, pump houses, unattached utility rooms, porches, steps, walks, and other additions of such character.~~

Reserved

**2. UDO Article 7 titled Supplemental Regulations specifically Section in 7.09 Zoning District Development Standards be amended as follows:**

**REPEALED**

~~*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, **fences** and walls cannot extend beyond more than one hundred fifty (150) feet from the property line **abutting** the right-of-way of 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:~~

**REPLACED**

(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:



**UDO Amendment Adopted 01/06/20**

1. UDO Article 12 Part II titled Stormwater Management Ordinance be repealed and replaced as follows:

**REPEALED**

**SECTION 12.06 TITLE, PURPOSE, AND GENERAL PROVISIONS**

- (A) *Title.* This section shall be known as the "**Stormwater** Quality Management and Discharge Control Ordinance" of Brunswick County and may be so cited.
- (B) *Authority.* Under Chapter 153A of the North Carolina General Statutes, Brunswick County has the responsibility and authority to regulate land use and **development**, enforce ordinances within its jurisdiction, and to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
- (C) *Purpose and Intent.* The purpose and intent of this section is to:
- (1) Ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of **watercourses** and water bodies in a manner pursuant to and consistent with the Federal **Clean Water Act** (33 U.S.C. ' 1251 et seq.) by reducing **pollutants** in **stormwater** discharges to the maximum extent practicable and by prohibiting **non-stormwater discharges** to the **storm drain system**.
  - (2) Establish minimum criteria to control and minimize the quantitative and qualitative impacts of **stormwater** runoff from **development** within Brunswick County.
  - (3) Encourage sustainable **development**. Prudent site planning should include special consideration for preserving **natural drainage ways**, maximizing infiltration, slowing **stormwater** runoff from individual sites in route to streams and rivers by use of effective runoff management, structural and non-structural **best management practices, drainage structures, and stormwater facilities**.
- (D) *Applicability.* The provisions of the Ordinance shall apply to all areas within the planning jurisdictional limits of Brunswick County. This Ordinance shall be permanently on file in the office of the Brunswick County Engineering Department.
- (E) *Exceptions to Applicability.* This **Stormwater** Management Ordinance shall not apply to those land use activities identified in the specific sections of this Ordinance or as identified below:
- (1) Existing **development** may be continued and maintained. Expansion to existing **structures** classified, as existing **development** must meet the provisions of this Ordinance.

- (2) Activities on a ***bona fide farm*** unless the activity is for non-farm purpose.
- (F) *Interpretation.*
- (1) In interpreting and applying this Ordinance, the requirements are intended to be minimum requirements that are imposed and are to be conformed to, and are in addition to, and not in lieu of, all other legal requirements.
  - (2) This Ordinance shall not be deemed to interfere with or annul or otherwise affect in any manner whatsoever any ordinance, rules, regulations, permits, or ***easements***, covenants, or other agreements between parties, provided however that, where this Ordinance imposes greater restrictions and controls with respect to ***stormwater*** management, the provisions of this Ordinance shall prevail.
- (G) *Permits.*
- (1) Except where provided elsewhere, ***development*** shall not commence without obtaining a ***Stormwater*** Permit pursuant to the provisions of this Ordinance.
  - (2) The ***Stormwater*** Permit Application shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which the permit is sought. The application shall be filed with the ***County*** on a form supplied by the ***County*** and shall be accompanied with the information identified in the ***Brunswick County Stormwater Management Manual***.
  - (3) A ***Stormwater*** Permit shall not be issued until the following conditions are met:
    - (a) Approval by the ***Stormwater Administrator*** of the supporting information.
    - (b) Submission and approval of any required ***easements***.
    - (c) Submission and approval of any required inspection and maintenance agreements.
    - (d) Payment of all fees.
  - (4) If the ***development*** requires a Sediment and Erosion Control Permit, the ***Stormwater*** Permit will be conditional upon the owner receiving such sediment and erosion permit and upon the filing of a copy of the approved Sediment and Erosion Control Plan and associated Permit to the ***Stormwater Administrator***.
  - (5) The ***Stormwater*** Permit will be valid for one (1) year from the date of issuance or if significant changes in the ***development*** are made that change the intent of the permit. Significant changes shall be determined by the ***Stormwater Administrator***. If significant changes are made, the original ***Stormwater*** Permit shall not be valid and a new permit shall be required.

- (H) *Fees.* A list of fees associated with the Ordinance are available at the Brunswick County **Stormwater Administrator's** Office.
- (I) *Applicability.* This article shall apply to all water entering the **storm drain system** generated on any developed and undeveloped lands lying within the **County** including any amendments or revisions thereto.
- (J) *Responsibility for Administration.* The **Stormwater Administrator** of the **County** shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the **Stormwater Administrator** may be delegated in writing by the **Stormwater Administrator** to persons or entities acting in the beneficial interest of or in the employ of the **County**.
- (K) *Variations.* All applications for **variance** must be filed with, and will be considered by, the Brunswick **County** Board of Commissioners.
- (L) *Severability.* The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.
- (M) *Regulatory Consistency.* This article shall be construed to assure consistency with the requirements of the **Clean Water Act** and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.
- (N) *Ultimate Responsibility of Discharger.* The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, **pollution**, or unauthorized discharge of **pollutants** into waters of the U.S. caused by said person. This article shall not create liability on the part of the **County**, or any agent or employee thereof for any damages that result from any discharger's reliance on this article or any administrative decision lawfully made thereunder.
- (O) **Stormwater Management.**
- (1) **Stormwater** shall be conveyed through **development** in an adequately designed drainage system of **natural drainage ways**, grass swales, storm sewers, culverts, inlets, and channels. Drainage systems shall be designed, constructed, and maintained so as to provide natural infiltration, control velocity, control **flooding**, extend the time of concentration of **stormwater** runoff, and to control to the maximum extent practicable the impacts of **development**. Where the above conditions are met and where a **development** does not require the preparation of a **Stormwater** Management Plan, as provided in Section 12.06(O)(2) of this Ordinance, obtaining a Brunswick County **Stormwater** Permit is not required.

- (2) **Stormwater** Management Plans must be prepared for, and shall be approved by, the **Stormwater Administrator** pursuant to the application for a **Stormwater** Permit for:
- (a) All commercial and **industrial** and other non-residential **development** and any **major subdivision** as defined in the Brunswick County **Subdivision** Ordinance.
  - (b) Any activity that disturbs land within thirty (30) feet of the banks of a stream or other natural waterway within the **County**, except when such disturbance is designated as Exempt or Allowable in the Brunswick County **Stormwater Management Manual**.
  - (c) Any filling or excavation of a parcel that results in a change of land surface of four (4) inches or more, except instances when said filling or excavation is required for on-site sewage treatment systems that are necessary to meet the requirements of the Brunswick County Health Department and that is specifically approved and inspected by Health Department.
  - (d) Any activity or **development** that will ultimately result in the disturbance of a total area of one or more acres, except for the following:
    - (1) Activity on a **bona fide farm**, unless the activity is for non-farm purposes.
    - (2) Activities on forestland for the production and harvesting of timber and timber products.
    - (3) **Stormwater** Management Plans shall:
      - (i) Include drawings, maps, supporting calculations, specifications, and summaries as outlined in the **Stormwater Management Manual**.
      - (ii) Demonstrate through accepted engineering practices described in the **Stormwater Management Manual** the impacts of the proposed **development**. Impacts of the proposed **developments** may include:
        - a. Effects on existing upstream and/or downstream drainage systems and property.
        - b. Ability of the **natural drainage way** to handle additional **stormwater** runoff.
        - c. Site-specific criteria.

- (iii) Demonstrate through accepted engineering practices described in the ***Stormwater Management Manual*** that ***stormwater*** runoff is adequately conveyed through the ***development*** in a drainage system designed to meet the criteria described in the ***Stormwater Management Manual***.
  - (iv) Demonstrate through accepted engineering practices described in the ***Stormwater Management Manual*** that ***stormwater facilities*** control the impacts of the ***development*** to the Maximum Extend Practicable and that those facilities are designed to meet the criteria described in the ***Stormwater Management Manual***.
- (d) ***Stormwater Facilities*** Inspection and Maintenance Requirements.
- (i) A written inspection and maintenance agreement in a form acceptable to the ***County*** Attorney and executed by the ***applicant*** of the ***Stormwater*** Permit and the owners of the facility, if different than the ***applicant***, shall be provided prior to receiving a ***Stormwater*** Permit. The agreement shall provide the following:
    - a. Shall bind the parties thereto and all subsequent owners, successors, and assigns.
    - b. The required inspection maintenance and ***access*** of the facility as defined in the ***Stormwater Management Manual***.
    - c. That, if the ***County*** directs the correction, repair, replacement, or maintenance of the facility in writing and the actions are not satisfactorily performed within a reasonable time (but not greater than 60 days), the ***County*** may, after reasonable notice, enter the land and perform all the necessary work and may assess the owner(s) of the facility with the cost of the work performed. The owner(s) served by the facility shall be jointly responsible to the ***County*** for the maintenance of the facility and liable for any costs incurred by the ***County*** pursuant to the said agreement and all properties are jointly subject to the imposition of the liens for said costs.

- d. The Inspection and Maintenance Agreement shall be recorded in the **Register of Deeds** at the expense of the **applicant**.
- e. **Stormwater facilities** shall be included in an **easement**. The **easement** shall include the area of the facility, area of ponded water, and enough area for **access** and maintenance. The **easement** shall be recorded in the **Register of Deeds** at the expense of the **applicant**.

(P) **Riparian Buffers.**

- (1) **Riparian buffers** shall be maintained on all sides of perennial and **intermittent streams**, lakes and other natural waterways as provided in the **Stormwater Management Manual**.
- (2) The following are exempt from this **riparian buffer** requirement:
  - (a) Areas along streams or other waterways that are mapped on the USGS quadrangle map or NRCS soils map where such streams or waterways do not actually exist on the ground.
  - (b) Ponds and lakes created for animal watering, irrigation, or other agricultural uses that are not part of a **natural drainage way**.
  - (c) Where application of these requirements would prevent all prospective use of a **lot platted** and recorded prior to the effective date of this Ordinance.
  - (d) **Water dependent structures** provided that those **structures** shall be designed, constructed, and maintained to provide the maximum practicable nutrient and bacterial removal, have the least practicable adverse effects on aquatic habitat, and to otherwise protect water quality.
  - (e) Roads, bridges, **stormwater** management facilities, ponds, and utilities where no other practical alternative exists. These **structures** shall be located, designed, constructed, and maintained to have minimal disturbance, provide the maximum practicable nutrient and bacterial removal, have the least practicable adverse effects on aquatic habitat, and to otherwise protect water quality.
  - (f) Ditches and manmade conveyances other than modified natural streams.
- (3) The **riparian buffer** shall be an undisturbed area extending from the top of **channel bank** landward a minimum distance of thirty (30) feet measured horizontally on a line perpendicular to the water body.

- (4) The following activities shall not be allowed in **buffer** areas:
  - (a) New on-site sewage systems, which utilize ground adsorption.
  - (b) New **structures**, except as specifically provided in the **Stormwater Management Manual**.
- (5) The **riparian buffer** shall be maintained by the landowner or homeowners association to maintain sheet flow to the maximum extent practical to provide for diffusion and infiltration of runoff and filtering **pollutants** into the affected stream and consistent with maintenance criteria as set out in the **Stormwater Management Manual**.
- (6) **Riparian buffer** areas shall be designated on recorded **plats** as **easements**. The **plat** shall be included with the **Stormwater** Permit Application.

#### **SECTION 12.07 DISCHARGE PROVISIONS**

- (A) **Prohibition of Illegal Discharges.** No person shall discharge or cause to be discharged into the **County storm drain system** or **watercourses** any materials, including but not limited to **pollutants** or waters containing any **pollutants** that cause or contribute to a **violation** of applicable water quality standards, other than **stormwater**. The commencement, conduct, or continuance of any **illegal discharge** to the **storm drain system** is prohibited except as described as follows:
  - (1) Discharges from the following activities will not be considered a source of **pollutants** to the **storm drain system** and to waters of the US when properly managed to ensure that no potential **pollutants** are present, and therefore they shall not be considered **illegal discharges** unless determined to cause a **violation** of the provisions of this Ordinance: potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to the **storm drain system**; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non-**industrial** roof drains; springs; individual residential and occasional non-commercial car washing; flows from riparian habitats and **wetlands**, dechlorinated **swimming pool** discharges; **street** wash waters; and flows from fire fighting.
  - (2) The prohibition shall not apply to any **non-stormwater discharge** permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of North Carolina under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the **County** for any discharge to the **storm drain system**.

- (3) With written concurrence of the Board of Commissioners, Brunswick County may exempt in writing other **non-stormwater discharges**, which are not a source of **pollutants** to the **storm drain system** or waters of the US.
- (B) **Prohibition of Illicit Connections.**
- (1) The construction, use, maintenance, or continued existence of **illicit connections** to the **storm drain system** is prohibited.
- (2) This prohibition expressly includes, without limitation, **illicit connections** made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (C) **Waste Disposal Prohibitions.** No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, **street, alley**, sidewalk, component of the **storm drain system**, or water of the US, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to **pollution**. Wastes deposited in **streets** in proper waste receptacles for the purposes of collection are exempted from this prohibition.
- (D) **Discharges in Violation of Industrial or Construction Activity NPDES Stormwater Discharge Permit.** Any person subject to an **industrial** or **construction activity** NPDES **stormwater** discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the **Stormwater Administrator** prior to or as a condition of a **subdivision** map, **site plan**, building permit, or **development** or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

## **SECTION 12.08 REGULATIONS AND REQUIREMENTS**

- (A) **Requirement to Prevent, Control, and Reduce Stormwater Pollutants.**
- (1) **Authorization to Adopt and Impose Best Management Practices.** The **County** will adopt requirements identifying **Best Management Practices** for any activity, operation, or facility, that may cause or contribute to **pollution** or contamination of **stormwater**, the **storm drain system**, or waters of the US as documented in a separate **Stormwater Management Manual**. Where BMPs requirements are promulgated by the **County** or any Federal, State of North Carolina, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of **pollutants** to the **storm drain system** or water of the US, every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements. The **Stormwater Administrator** will report to the **County** Board of Commissioners annually on the status of implementation of BMPs, the **pollutants** of concern to be addressed the next year, and any new BMPs to be developed. BMPs developed under this program

will be incorporated as part of the **County's Stormwater Management Manual**.

- (2) **New Development and Redevelopment.** The **County** may adopt requirements identifying appropriate BMPs to control the volume, rate, and potential **pollutant** load of **stormwater** runoff from new **development** and redevelopment projects as may be appropriate to minimize the generation, transport, and discharge of **pollutants**. The **County** shall incorporate such requirements in any land use entitlement and construction or building-related permit to be issued relative to such **development** or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this article.
- (3) **Responsibility to Implement Best Management Practices.** Notwithstanding the presence or absence of requirements promulgated pursuant to subsections (1) and (2), any person engaged in activities or operations, or owning facilities or property which will or may result in **pollutants** entering **stormwater**, the **storm drain system**, or waters of the US shall implement BMPs to the maximum extent practicable to prevent and reduce such **pollutants**. The owner or operator of a commercial or **industrial** establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal **storm drain system** or **watercourses**. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner's or operator's expense.

BMPs required by the **County** can be obtained from the **Stormwater Administrator's** Office by requesting the BMP information appropriate to a commercial or **industrial activity** from the **Stormwater Management Manual**.

- (B) **Requirement to Eliminate Illegal Discharges.** Notwithstanding the requirements of Section 12.10(A) herein, the **Stormwater Administrator** may require by written notice that a person responsible for an **illegal discharge** immediately, or by a specified date, discontinues the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future **illegal discharges**.
- (C) **Requirement to Eliminate or Secure Approval for Illicit Connections.**
  - (1) The **Stormwater Administrator** may require by written notice that a person responsible for an **illicit connection** to the **storm drain system** comply with the requirements of this article to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this article.

- (2) If, subsequent to eliminating a connection found to be in **violation** of this article, the responsible person can demonstrate that an **illegal discharge** will no longer occur, said person may request **County** approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.
- (D) **Watercourse Protection.** Every person owning property through which a **watercourse** passes, or such person's lessee, shall keep and maintain that part of the **watercourse** within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the **watercourse**. In addition, the owner or lessee shall maintain existing **privately owned structures** within or adjacent to a **watercourse**, so that such **structures** will not become a hazard to the use, function, or physical integrity of the **watercourse**. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the **watercourse** to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the **watercourse** that is within their property lines in order to protect against erosion and degradation of the **watercourse** originating or contributed from the property.
- (E) **Requirement to Remediate.** Whenever the **Stormwater Administrator** finds that a discharge of **pollutants** is taking place or has occurred which will result in or has resulted in **pollution** of **stormwater**, the **storm drain system**, or water of the US, the **Stormwater Administrator** may require by written notice to the owner of the property and/or the responsible person that the **pollution** be remediated and the affected property restored within a specified time pursuant to the provisions of Sections 12.09 and 12.10.
- (F) **Requirement to Monitor and Analyze.** The **Stormwater Administrator** may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to **stormwater pollution, illegal discharges**, and/or **non-stormwater discharges** to the **storm drain system** or waters of the US, undertake at said person's expense such monitoring and analyses and furnish such reports to the **County** as deemed necessary to determine compliance with this article.
- (G) **Notification of Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in **illegal discharges** or **pollutants** discharging into **stormwater**, the **storm drain system**, or waters of the US from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a **hazardous material**, said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-**hazardous materials**, said person shall notify the **Stormwater Administrator's** Office in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the **County's** Engineering

Services Department within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or **industrial** establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

#### **SECTION 12.09 INSPECTION AND MONITORING**

- (A) *Authority to Inspect.* Whenever necessary to make an inspection to enforce any provision of this article, or whenever the **Stormwater Administrator** has cause to believe that there exists, or potentially exists, in or upon any **premises** any condition which constitutes a **violation** of this article, the Administrator may enter such **premises** at all reasonable times to inspect the same and to inspect and copy records related to **stormwater** compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the **County** is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
- (B) *Authority to Sample, Establish Sampling Devices, and Test.* During any inspection as provided herein, the **Stormwater Administrator** may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

#### **SECTION 12.10 ENFORCEMENT**

(A) ***Violations.***

- (1) Whenever there is a failure to follow an approved **stormwater** management plan or permit, or whenever, by the provisions of this article, the performance of any act is required or prohibited, or any regulation or limitation is imposed on the use of any land, or the **erection**, alteration, use or change of use of any **structure**, a failure to comply with such provisions shall constitute a **violation** of this article.
- (2) Any owner, tenant or occupant of any land, **structure** or part thereof, and any architect, engineer, designer, builder, contractor, consultant, agent or other person who, acting individually or in concert, designs or constructs any system, **structure** or part thereof, or otherwise directs, assists, allows or participates, either directly or indirectly, in any conduct or activity which creates or maintains a situation that is contrary to the requirements contained in this article may be held responsible for the **violation** and therefore subject to the penalties and remedies contained herein.

(B) ***Notice of Violation.***

- (1) Upon determining that a **violation** of this article has occurred, the **Stormwater Administrator** shall deliver a written notice to the person(s) responsible for the **violation** by personal service or by registered or certified mail, return receipt requested, indicating the nature of the **violation** and ordering the action necessary to correct it. Such notice may require, without limitation:

- (a) The performance of monitoring, analyses and reporting;
  - (b) The elimination of all **illicit connections**, practices, operations or discharges;
  - (c) The abatement or remediation of **stormwater pollution** or contamination hazards and the restoration of any affected property;
  - (d) Payment of a fine or civil penalty; and/or
  - (e) The implementation of source control or treatment BMPs.
- (2) The final notice of **violation**, which may also be the initial notice, shall in addition to the above, include the words FINAL NOTICE OF **VIOLATION** in the heading, state the action the **County** intends to take if the **violation** is not corrected, and shall advise that the **Stormwater Administrator's** order may be **appealed** as provided in Section 12.10(D) of this article.
  - (3) If abatement of a **violation** and/or remediation of affected property are required, the notice shall set forth a deadline by which such abatement and/or remediation must be completed.

(C) *Penalties, Fines, and Remedies.*

- (1) Any **violation** of any provision of this **Stormwater** Management Ordinance, including but not limited to **illegal discharge**, shall constitute a misdemeanor and subject the violator to a criminal fine of five hundred dollars (\$500.00) or imprisonment for up to twenty (20) days as provided in N.C.G.S. ' 14-4 and 15A-1340.23.
- (2) Civil penalties imposed for **illegal discharge** will be as follows:
  - (a) First time offenders will be assessed a civil penalty of one hundred dollars (\$100.00) per **violation** or per day for a continuing **violation** if the quantity of the discharge is equal to or less than five (5) gallons and consists of domestic or household products. If the quantity of the discharge is greater than five (5) gallons or contains non-domestic substances the offending party will be assessed a civil penalty of two hundred fifty dollars (\$250.00) per **violation** or per day for a continuing **violation**.
  - (b) Penalties imposed upon repeat offenders willfully committing **violations** which are identical or substantially similar to previous **violations** will be double the amount assessed for the prior **violation**, but will in no event exceed ten thousand dollars (\$10,000.00) per **violation** or per day for a continuing **violation**.

- (3) All other acts or conditions constituting a **violation** of this article shall subject the offender to a civil penalty of two hundred dollars (\$200.00).
  - (4) The assessment of a civil penalty may be **appealed** as provided in Section 12.10(D) of this article.
  - (5) Each day a **violation** continues beyond the deadline for voluntary compliance established in the final notice of **violation** shall constitute a separate and distinct offense for purposes of the penalties and remedies provided herein.
  - (6) The **County** may recover, by way of a civil action in the nature of a debt, any civil penalty not paid within thirty (30) days of the violating party's receipt of written notice imposing such penalty, or within thirty (30) days of that party's receiving written notice of a decision of the Board of **County** Commissioners, or the **County** Manager if no **appeal** is taken therefrom, affirming the imposition of the penalty.
  - (7) In addition to the penalties and fines set forth above, the **County** may enforce the provisions of this Ordinance by seeking appropriate equitable remedies from the General Court of Justice, including injunctions and orders of abatement.
- (D) **Appeals.** This section applies to all **appeals** except those concerning abatement by the **County** of situations dangerous or prejudicial to the public health which are discussed in Section 12.10(E) below. Any person aggrieved by a final decision of the **Stormwater Administrator**, including but not limited to the issuance of a notice of **violation**, denial of a permit or the assessment of civil penalties, may **appeal** that decision to the **County** Manager for the County of Brunswick. Such **appeals** shall be in writing, signed by the **appealing** party(ies) and shall identify with specificity the final decision being **appealed**, the date they received notice of that decision, and contain a detailed statement of the reason or basis for the **appeal**. All **appeals** shall be filed with the office of the **County** Manager within fifteen (15) days of receiving final notice of the **Stormwater Administrator's** decision. The time period for **appeal** from a decision of the **Stormwater Administrator** denying a permit will commence to run from the date of receipt of written notification of such denial. The time period for all other **appeals** from the **Stormwater Administrator** will commence to run from the date of receipt of the FINAL NOTICE OF **VIOLATION**. A hearing on an **appeal** to the **County** Manager will take place within ten (10) working days of the date of filing of the notice of **appeal**.
- Any party(ies) not satisfied with the decision of the **County** Manager may **appeal** his/her decision to the Board of **County** Commissioners. Such **appeals** shall be filed with the Clerk to the Board of Commissioners within fifteen (15) days of receiving written notice of the **County** Manager's decision. All **appeals** must be in writing, signed by the **appealing** party(ies) and shall identify with specificity the final decision being **appealed**, the date they received notice of that decision, and contain a detailed statement of the reason or basis for the **appeal**.

- (E) *Abatement by **County** of Situations Dangerous or Prejudicial to the Public Health.* Pursuant to the authority contained in N.C.G.S. §§153A-121 and 153A-140, the **Stormwater Administrator** is hereby authorized to require immediate abatement of any **violation** of this article which is dangerous or prejudicial to the health, safety and welfare of the citizens of Brunswick County. If any person or entity feels that such order for immediate abatement is in error, they may **appeal** the order to the Board of **County** Commissioners within seven (7) days of receiving written notice of the order. Such **appeals** shall be in the form of a signed writing filed with the Clerk to the Board of Commissioners and shall include a detailed statement of the reason or basis for the **appeal**. Any person or entity aggrieved by a decision of the Board of Commissioners affirming an order of immediate abatement may **appeal** such decision to the General Court of Justice within thirty (30) days of receiving written notification of such decision.

If at any point the time for an **appeal** lapses and the violating condition still exists, the **County** shall have authority to enter upon such **premises** to remove, abate, or remedy everything that is dangerous or prejudicial to the public health. The cost of such actions taken by the **County** shall be paid by the person or entity in default within thirty (30) days of receiving written notice of such costs. If these costs are not so paid, they shall thereafter become and constitute a lien upon the land or **premises** where the nuisance arose, and shall be collected as unpaid taxes.

No relief obtained by the **County** under this section shall prevent the **County** from seeking other and further relief as authorized under this article.

- (F) *Acts Potentially Resulting in a **Violation** of the Federal **Clean Water Act**.* Any person(s) whose acts or omissions constitute **violations** of this article may also, by virtue of the same acts or omissions, be in **violation** of the Federal **Clean Water Act** and therefore subject to additional sanctions associated with that Act, including any civil and criminal penalties contained therein. Any enforcement action authorized under this article shall also include written notice to the violator of such potential liability.

## **REPLACED**

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.

**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.

## **2. UDO Article 6 titled Zoning Districts is amended as follows:**

~~6.06(A) M Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted~~

~~6.06(B) M Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~

~~6.06(B)(1) C Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~

~~6.06(C) M Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted~~

~~6.06(D) E Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution prepared by a North Carolina Professional Engineer that meets the intent of the Stormwater Ordinance and~~

~~is approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted~~

~~**6.06(E) E** Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~

~~**6.06(F) I** Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted. Total Lot Area for stormwater purposes is the required building lot area as defined in F.~~

~~**6.06(G) K** Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~

~~**6.06(H) E** Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted. Total Lot Area for stormwater purposes is the required building lot area as defined in D.~~

~~**6.06(I) M** Not more than 30% of the total lot area may be covered by the main building, accessories, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspections Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted~~

~~**6.06(J) K** Not more than 30% of the total lot area may be covered by the main building, accessories, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspections Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~

~~**6.06(K) I** Not more than 30% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic and vinyl will be permitted.~~

~~**6.06(L) J** Not more than 20% of total lot area may be covered by the main building, accessory structures, and impervious surfaces. This percentage may be exceeded with a solution approved by the Inspection Department. No landscaping using impervious materials such as solid plastic~~



105409155430	0.21	256ND00122	105409252611	0.13	256ND00136
105409154398	0.21	256ND00121	105409251569	0.15	256ND00135
105409154346	0.19	256ND00120	105409254606	0.15	256ND00140
105409154304	0.18	256ND00119	105409253655	0.15	256ND00139
105409153352	0.17	256ND00118	105410256609	0.15	256ND00144
105409153310	0.16	256ND00117	105410353971	0.15	256ND00160
105409152268	0.16	256ND00116	105410352878	0.15	256ND00158
105409151267	0.20	256ND00114	105410258745	0.14	256ND00149
105409057027	0.30	256ND00105	105410351884	0.14	256ND00156
105409058127	0.26	256ND00107	105410366190	0.22	256ND00167
105409057166	0.40	256ND00106	105410367193	0.20	256ND00169
105409058179	0.25	256ND00108	105410257753	0.14	256ND00147
105409059211	0.24	256ND00109	105410352836	0.14	256ND00157
105409059263	0.24	256ND00110	105410354923	0.15	256ND00161
105409150215	0.25	256ND00111	105410258797	0.14	256ND00150
105409150266	0.23	256ND00112	105410355968	0.21	256ND00164
105409151216	0.21	256ND00113	105410257701	0.14	256ND00146
105409152218	0.18	256ND00115	105410368178	0.14	256ND00171
105409159572	0.16	256ND00131	105410355916	0.18	256ND00163
105409159520	0.16	256ND00130	105410257794	0.13	256ND00148
105409158488	0.16	256ND00129	105410353829	0.15	256ND00159
105409158437	0.16	256ND00128	105410351833	0.13	256ND00155
105409157486	0.18	256ND00127	105410259748	0.14	256ND00151
105409157435	0.22	256ND00126	105410256751	0.14	256ND00145

105409156484	0.22	256ND00125	105410369224	0.25	256ND00172
105409251517	0.14	256ND00134	105410367141	0.20	256ND00168
105409250565	0.15	256ND00133	105410350882	0.14	256ND00154
105409250523	0.16	256ND00132	105410259799	0.15	256ND00152
105410255659	0.15	256ND00143	105410366057	0.24	256ND00166
105409254657	0.15	256ND00141	105410356942	0.13	256ND00165
105409253604	0.14	256ND00138	105410368135	0.17	256ND00170
105410350831	0.15	256ND00153	105410354974	0.15	256ND00162



2. Gateway Corridor Overlay District Rezoned to add the Overlay District (6.07) Parcels as follows:

PIN	PARCEL ID	PIN	PARCEL ID
105511554285	2420000609	105517127281	256CC015
105511554354	2420000601	105517126126	256CC018
105514335451	2420000928	105517125164	256CC019
105511563124	2420000617	105517124150	256CC021
105515531366	242MH017	105517124009	256CC022
105515547411	2423A124	105517123047	256CC023
105515547352	2423A119	105517122096	256CC024
105515544060	2420000911	105517122023	256CC025
105515531523	242MH01201	105517121071	256CC026
105515531304	242MH01202	105517014725	256BB00245
105514432234	242NA00105	105517013764	256BB00244
105514432190	242NA001	105517013702	256BB00234
105514431031	242NA004	105517012639	256BB00243

<b>PIN</b>	<b>PARCEL ID</b>	<b>PIN</b>	<b>PARCEL ID</b>
105514420979	242NA005	105517011636	256BB00231
105514420917	242NA006	104520917542	256BB00224
105514328941	242NA009	104520915476	256BB00221
105514326875	242NA012	104520915414	256BB00220
105513221843	242OA080	104520914462	256BB00219
105513220883	242OA079	104520912397	256BB00239
105513220812	242OA078	104408893212	256HB042
105513120676	242OA092	104408893114	256HB041
105514320644	242NA023	104408891059	256HB04302
105513123685	242OA088	104408893018	256HB040
105513123504	242OA106	104408883828	256HB039
105513124516	242OA107	104408882802	256HB037
105518225436	256CC002	104408883747	256HB038
105517224475	256CC003	104520910266	256BB00212
105517224424	256CC004	104520911310	256BB00213
105517221343	256CC009	104520818062	256BB00203
105517023384	242OA035	104520910212	256BB00211
105517220239	256CC011	104520819132	256BB00209
105514327889	242NA010	104520808829	256BB00201
105514329903	242NA008	104520808649	256BB00205
105514322710	242NA020	105515532517	242MH01203
105514321668	242NA021	105515530510	242MH01602
105514321606	242NA022	105514437272	242MH006

<b>PIN</b>	<b>PARCEL ID</b>	<b>PIN</b>	<b>PARCEL ID</b>
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105513126645	242OA085	105514437210	242MH005
105513122656	242OA090	105514436168	242MH004
105513129842	242OA077	105514434197	242MH001
105513127852	242OA074	105514436106	242MH003
105514325709	242NA015	105514432004	242NA003
105514323785	242NA017	105513123616	242OA089
105514325851	242NA014	105513125666	242OA086
105513121546	242OA104	105514326813	242NA013
105513120516	242OA101	105513128882	242OA076
105513121646	242OA091	105513128822	242OA075
105513124645	242OA087	105513126891	242OA073
105513120606	242OA093	105514324747	242NA016
105514228578	242NA026	105514323733	242NA018
105513125578	242OA108	105514322771	242NA019
105517120497	242OA103	105517120426	242OA102
105517129216	256CC013	105517029445	242OA100
105517026236	242OA043	105517223410	256CC006
105517126198	256CC017	105513028517	242OA097
105517223472	256CC005	105513027511	242OA051
105517027434	242OA050	105517028447	242OA098
105517026401	242OA040	105517121488	242OA105
105517028397	242OA099	105517121020	256CC027

<b>PIN</b>	<b>PARCEL ID</b>	<b>PIN</b>	<b>PARCEL ID</b>
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105517027368	242OA049	105517110968	256CC028
105517027381	242OA048	105517024484	242OA037
105517129277	256CC012	105517023462	242OA036
105517125112	256CC020	105517022307	242OA023
105517019985	256CC029	105517025315	242OA039
105515530353	242MH011	105517021362	242OA024
105514439390	242MH010	105517023311	242OA034
105514324916	242NA00116	104520929350	242OA006
105514329955	242NA007	105517022267	242OA033
105514321877	242NA00104	104520929214	242OA005
105514327837	242NA011	105517025253	242OA044
104520919518	256BB00227	105517024281	242OA045
104520916580	256BB00223	105517022221	242OA032
104520916438	256BB00222	105517024109	242OA046
104520914401	256BB00218	105517023135	242OA047
104520913349	256BB00217	105517021165	242OA031
104520912335	256BB00215	105517021068	242OA030
104520911373	256BB00214	105517015842	256BB00238
104520819167	256BB00210	105517014778	256BB00246
104520818098	256BB00208	104520919670	256BB00241
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104520808726	256BB00206	105506495458	242FE003

PIN	PARCEL ID	PIN	PARCEL ID
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104408895498	256GB017	105506495543	242FE001
105511562072	2420000616	105513233088	242OA110
105514430529	256CE00102	105513222814	242OA081
105514337426	256CE007	104520806756	256BB00102
105514337357	256CE003	105514445880	2420000981
105514337358	256CE004	105514337364	256CE001
105514337440	256CE005	105517017882	256BB086
105514337432	256CE006	104520928064	242OA002
105514337476	256CE00104	105514229759	242NA00103
105514338584	256CE025	105514227701	242NA00102
105514338576	256CE024	105514229692	242NA024
105514338577	256CE023	105514229630	242NA025
105514338522	256CE026	104520928197	242OA004
105514338514	256CE027	104520928181	242OA003
105514338515	256CE028	104520918556	256BB00226
105514337418	256CE008	105511552992	2420000615
105514337510	256CE009	105511553823	2420000614
105514337502	256CE010	105511554539	2420000610
105515547483	2423A125	105515544966	2420000606
105515548324	2423A118	105513124890	242OA070
104520808813	256BB00207	105515547192	2423A040

PIN	PARCEL ID	PIN	PARCEL ID
104408892210	256HB04304	105515547040	2423A04001
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104408891464	256HB04303	105513125861	242OA071
105517222358	256CC007	105513128688	242OA082
105517220391	256CC010	105513127686	242OA083
105513223997	242OA109	105514228526	242NA027
105514438286	242MH008	105514227564	242NA028
105514438234	242MH007	105513126534	2560000105
105618305397	2420000982	105514226550	242NA030
104408897597	256GB004	105513223569	256CC00101
105517020283	242OA026	105515546798	2420000602
105517020138	242OA027	105511555197	2420000608
105517020120	242OA028	105511554131	2420000622
105517010674	256BB00242	105514438475	242MH01601
105517010621	256BB00229	105514437421	242MH01603
104408897466	256GB006	105514435343	242MH016
104408885623	256GA012	104520916658	256BB001
105506497538	242FD001	105513036075	2560000106
105506497535	242FD002	105515535640	242MH01205
105506497543	242FD003	104520815485	2560000112
105506497541	242FD004	104520918504	256BB00240
105506497458	242FD005	105517020023	242OA029
105506498129	242FH004	104408892408	256HB04305

PIN	PARCEL ID	PIN	PARCEL ID
105506498221	242FH003	104520918967	242OA001
105506498213	242FH002	105513126821	242OA072
105506498216	242FH001	104504929579	2560000109
105506497453	242FF001	105506487579	24200002
105506497460	242FF002	105515545555	2420000619
105506497377	242FF003	105515546322	2423A121
105506497375	242FF004	104520910956	256BF014
105506497373	242FF005	104520910977	256BF015
105506497380	242FF006	104520911908	256BF016
105514227512	242NA03001	104520910971	256BF017
105515533543	242MH012	104520910925	256BF013
104408881801	256HB036	104520817893	256BF018
105517124207	256CC001	104520801662	256BC022
104408891223	256HB04301	104520801665	256BC023
104520818760	2560000111	104520802616	256BC00102
105514439248	242MH009	104520801684	256BC021
105517021227	242OA025	104520801763	256BC017
104520812269	2560000114	104520801543	256BC00101
104408883424	256HB00601	104520819921	256BF011
104408893420	256HB043	104520819942	256BF010
105603313750	2270002426	104520819973	256BF009
105506474780	2420000906	104520819836	256BF020
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PIN	PARCEL ID	PIN	PARCEL ID
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104520913728	2560000110	105515543338	2420000926
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104408898299	256GB015	105515542593	2420000988
105514338581	256CE00101	104408882566	256HB001
104520806066	256BA026	104408886993	256GA010
105506496397	2420000106	105515542718	2420000920
105511677470	24200005	105515543273	2420000925
105511568840	2420000502	105514337299	256CE00103
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105515538732	242MA084		
105514246843	2420000903		