

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF DUCK, NORTH CAROLINA TO ADDRESS
BEACH AND DUNE STANDARDS CHANGING AS A RESULT OF
THE TOWN'S BEACH NOURISHMENT PROJECT**

Ordinance No. 17-05

WHEREAS, the Town of Duck is conducting its first beach nourishment project along a 1.7 mile stretch of beach extending north of the U.S. Army Corps of Engineers Field Research Facility; and

WHEREAS, the beach nourishment project will cause several changes in how the Town of Duck regulates certain development and activities within the beach nourishment project area, such as the establishment of a static vegetation line and limitations on beach bulldozing; and

WHEREAS, the Duck Town Council and Planning Board have found that these standards will help achieve the Town's objective of protecting of preserving one of its greatest assets, its oceanfront beach; and

WHEREAS, the Duck Town Council and Planning Board have found that these standards are fair and reasonable to the affected property owners; and

WHEREAS, the Duck Town Council and Planning Board have found that these standards are consistent with the recommendations of the Town's adopted CAMA Core Land Use Plan.

NOW THEREFORE BE IT ORDAINED by the Town Council for the Town of Duck, North Carolina that the Zoning Ordinance shall be amended as follows:

PART I. Subsection 156.002 shall be amended by the following change to the definition for *Lot Area*:

"LOT AREA. The total horizontal area included within lot lines. For the purposes of determining lot coverage, maximum building size or number of bedrooms, the **LOT AREA** for oceanfront properties shall be considered the area landward of the static vegetation line or first line of stable natural vegetation (as determined pursuant to Coastal Area Management Act regulations) that lies within the remaining lot lines or the lot square footage determined by the Dare County tax assessment office for real estate tax assessment purposes, whichever is greater."

Subsections 156.063(C) and 156.124(B) shall be amended with the addition of the following definition:

“STATIC VEGETATION LINE. In areas within boundaries of a large-scale beach fill project, the first line of stable natural vegetation that existed prior to the onset of project construction shall be defined as the “static vegetation line”. The “onset of project construction” shall be defined as the date sediment placement begins. A static vegetation line shall be established in coordination with the N.C. Division of Coastal Management using on-ground observation and surveys of existing conditions for all areas of the oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the first line of stable natural vegetation. In all locations where the first line of stable natural vegetation is landward of the static vegetation line, the first line of stable natural vegetation shall be used as the reference point for measuring oceanfront setbacks.”

Subsection 156.063(D)(5) shall be removed from this section.

Subsection 156.064 shall be established.

“156.064 BEACH BULLDOZING.

(A) *Definitions.* For the purpose of this section, the definitions from Subsection 156.063 and the following additional definitions shall apply:

BEACH BULLDOZING. The process of moving natural beach material from any point seaward of the static vegetation line or first line of stable natural vegetation to repair storm damage to an existing dune or to create a protective berm for an imminently threatened structure.

BEACH FILL PROJECT AREA. The area of oceanfront dune and beach in which fill is added during a hurricane or erosion protection project sponsored by the Town of Duck or any local, state or federal government agency. The beach fill project area is intended to include all areas that receive fill, regardless of the amount.

(B) *Beach bulldozing and beach fill.* When beach bulldozing and/or beach fill is used to provide protection to a structure or to prevent its collapse, the seaward toe of the slope of the permitted beach bulldozing/fill area may be considered as the seaward toe of the frontal dune for the purposes of determining violations in accordance with this section. In no instance shall beach bulldozing or fill cause a building or structure to extend more than 20 feet beyond the adjacent first line of stable natural vegetation or static vegetation line directly north and south of the subject property.

(C) *Beach bulldozing limitations in beach fill project areas.* On the Ocean Beach within

a beach fill project area, beach bulldozing, pushing sand by mechanical means, or other mechanical change to the topography is prohibited except in the following situations:

(1) When such work is performed as a part of a hurricane or erosion protection project or beach nourishment project sponsored by the Town of Duck or any local, state or federal government agency;

(2) When such work is performed at the direction of, and with authorization by, the Town of Duck for the purpose of beach maintenance;

(3) When such work is authorized by issuance of a general waiver of this section by the Town Council following a natural disaster.

(4) When such work is authorized by issuance of a general waiver of this section by the Town Council in instances of documented beach or dune erosion resulting in an imminently threatened structure (as defined by CAMA).”

Subsection 156.124(C)(2)(b) shall be amended by the following changes:

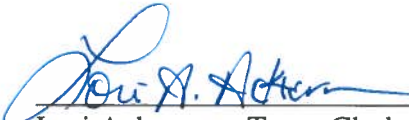
“(b) Accessory structures that are exempt from the CAMA setback criteria shall not be located within 30 feet of the first line of stable natural vegetation or static vegetation line. This shall include decks, gazebos, pools and any other structure which meets the exception criteria establish by the Coastal Area Management Act (CAMA) in 15A NCAC 07H.0309. This setback shall not apply to dune walkover structures as defined in this ordinance. Additionally, 1 dune deck per lot may be allowed no closer than 15 feet to the first line of stable natural vegetation or static vegetation line provided that the dune deck does not exceed 8 feet measured in any dimension, including the area that is combined with or adjacent to any dune walkover structure that may be present, and also provided that the dune deck is no higher than 30 inches above grade. In cases where the first line of stable natural vegetation is not evident on the subject property, this line shall be determined by interpolating a straight line between nearest identifiable first line of stable natural vegetation on the adjacent properties directly to the north and south of the subject property (this clause does not apply to properties subject to the static vegetation line).”

PART II. This ordinance shall be effective upon its adoption.



Don Kingston, Mayor

ATTEST:



Lori Ackerman, Town Clerk



Date adopted: July 5, 2017

Motion to adopt by: Chuck Burdick

Vote: 5 AYES 0 NAYS