

**TOWN OF HOLDEN BEACH
ORDINANCE 21-01
(FORMERLY ORDINANCE 20-17)**

**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, SECTION 94.03:
FRONTAL DUNE POLICY AND REGULATIONS**

BE IT ORDAINED BY the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina that the Holden Beach Code of Ordinances, Section 94.03: Frontal Dune Policy and Regulations be amended as follows:

Section One: Amend Section 94.03: Frontal Dune Policy and Regulations as follows (changes in purple):

94.03 FRONTAL DUNE POLICIES AND REGULATIONS

(A) Definition. For the purpose of this section, FRONTAL DUNES shall mean the dunes designated by the town's local certified CAMA official as the "frontal dunes"; otherwise, they are the first mounds of sand located landward of the ocean beach with sufficient vegetation, height, and configuration to offer protection from ocean storms. Considering the fact that oceanfront property limits extend to the mean high water mark, the frontal dune may be located on private property.

(B) Purpose of the frontal dune. It is desirable to maintain a continuous frontal dune along the ocean-front of the island, extending from Lockwoods Folly Inlet to Shallotte Inlet. A continuous frontal dune thus maintained provides a single, ocean water surge flood control structure that serves to mitigate the effects of storms, that could by their very nature cause damage to public and private property. It is the intent of the Town that the frontal dune be maintained to standard specifications and by sand renourishment, so that the above-mentioned protection can be provided.

(C) Frontal Dune Policy and Regulations. The following policies and regulations apply: (Penalty for failure to adhere is \$500.00 per violation.)

(1) It shall be unlawful for any person or vehicle to cross the designated frontal dune, except for official Town business or emergency access, unless such crossing is over a Town approved ramp and/or stairs.

(2) Frontal Dune Policy and Restrictions:

(a) Whenever property owners elect to construct a walkway across the frontal dune on their property, to provide pedestrian access to the beach strand, the following specifications shall apply. (Note: the same criteria applies when property owners seek to apply for town approval of an encroachment agreement to construct a walkway over public property adjacent to their residence.)

1. The walkway shall be constructed only of building materials approved by the N.C. State Building Code. The walking passageway shall be no wider than four feet. The underside of the walkway across the frontal dune shall be a minimum of 18 inches and a maximum of 36 inches above the crest of the sand. Exception: Town owned CAMA accessways may utilize a 6-foot walkway.

2. The first step down to the beach strand shall be placed no farther seaward than the beginning of the downward slope of the dune, or the existing line of escarpment determined by averaging the downward slope or escarpment line for the property in question and those properties directly adjacent.

3. Steps shall be of open tread construction with a maximum riser height of 8.25 inches and a minimum tread depth of 9.00 inches, and shall meet the requirements of the N.C. State Building Code.

4. In accordance with N.C. State Division of Coastal Management's enforcement of the Coastal Area Management Act (CAMA), the walkway access to the beach strand over the frontal dune shall be conclusively presumed to entail negligible alteration of the dune. The walkway shall be raised on posts or pilings a minimum of two feet and a maximum of five feet depth into the dune. In no case shall the walkway be permitted if it will, in the opinion of the Local CAMA Permit Officer, diminish the dune's capacity as a protective barrier against flooding and erosion.

5. Except for handicap ramps, steps from the walkway to the beach strand shall be placed only perpendicular to the frontal dune line.

6. No structure other than the four-foot wide wooden walkway shall be located south of the landward toe of the frontal dune. This applies to decks, gazebos, sitting areas and other additions that a property owner may desire to make to the allowed walkway. Structures (other than the four-foot walkway) that exist when this section is adopted may remain in place temporarily; however, all such structures must be removed no later than December 31, 2003, in order to be in compliance with this section. A building permit is required if there are any repairs needed to walkway load bearing surfaces, such as supporting posts. Adding additional lengths to supporting posts shall constitute a repair. **Exception:** Town owned CAMA accessways may utilize a 6-foot walkway. Exception: Property owners with lots that have more than 300 feet from the seaward toe of the frontal dune to the last line of natural stable vegetation, as determined by the local CAMA officer, may install a single walkway with a maximum width of four feet; the walkway shall be a minimum of three feet high with a maximum height not to exceed four feet; and shall terminate at the last line of natural stable vegetation. Walkways shall be permitted and built in accordance with all federal, state and local building requirements. **Exception: Swimming Pools maybe located south of the town's designated frontal dune, placement of pools and decking shall not extend more than 50 feet from the established seaward toe of designated frontal dune. This exception only applies when the CAMA dune is more seaward than the town's frontal dune.**

(b) Showers shall not be located on walkways over the dune south of its landward toe. Shower runoff must not drain onto any portion of the frontal dune or south of the landward toe.

(c) In those instances where a residence or other structure is located directly adjacent to the frontal dune, stormwater runoff from roofs shall be controlled by the property owner so as not to erode sand on any portion of the frontal dune.

(d) Sand fences:

1. The installation of sand fence along the oceanfront, when properly located and erected, is an effective method to control blowing sand which may lead to the formation of dunes. However, when improperly located and erected, sand fencing may interfere with emergency beach access, cause accumulation of debris, and discourage sea turtle nesting.

2. Sand fencing is defined as a fence normally constructed of untreated and unpainted wood held together with twisted wire, with the fence being nailed to a minimum of 1.5 inch by 3.5 inch (2x4) posts that are spaced at intervals not less than five feet and are embedded no more than two feet into the sand, and extending no higher than four feet above grade.

3. No sand fence shall be erected without a no-cost sand fence permit issued by the Town Inspections Department. The permit may be requested and returned by mail following completion.

4. All sand fencing shall be installed in individual lengths of ten feet or less, at an angle between 45 and 90 degrees to the shoreline, facing west. The lengths of sand fence will be spaced at least seven feet apart, parallel to each other, to allow sea turtles and pedestrians to pass through. This method of sand fencing encourages sand accretion and minimizes negative impacts to nesting sea turtles.

5. The Building Inspector shall have the authority to summarily remove, abate, or remedy a sand fence determined dangerous or prejudicial to the public safety whether by reason of its location, or its subsequent state of disrepair or damage. Any fence so removed will be delivered to its owner if known, and if not, will be disposed of by the Public Works Department in an appropriate manner.

(e) Property owners are encouraged to vegetate and fertilize the portion of the frontal dune on their property.

(f) An exception to this policy is that ocean front property owners or their agents may traverse on (or over) the specific portion of the frontal dune within the limits of their property (above the mean high water mark), so as to make minor dune repairs, plant vegetation, install sand fencing and otherwise maintain the frontal dune on their property so that it may afford the intended degree of flood protection per this section.

(Ord. 98-04, passed 4-27-98; Am. Ord. 99-04, passed 3-8-99; Am. Ord. passed 3-27-00; Am. Ord. 00-25, passed 12-11-00; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 03-09, passed 11-24-03; Am. Ord. 17-04, passed 3-21-17; Am. Ord. 17-05, passed 4-18-17)

Section Two The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

Section Three: This ordinance shall be effective the _____ day of _____, 2021.

Adopted this the _____ day of _____, 2021.

J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk