



TOWN OF HOLDEN BEACH
PLANNING & ZONING BOARD REGULAR MEETING
HOLDEN BEACH TOWN HALL – PUBLIC ASSEMBLY ROOM
TUESDAY, APRIL 2, 2024 – 10:00 AM

- 1. Call to Order**
- 2. Roll Call**
- 3. Public Comments on Agenda Items**
- 4. Approval of Minutes February 27, 2024**
- 5. Discussion of Amendments to the NFIP Ordinance- Section 154 of the Town Ordinance Book as Required by the North Carolina Department of Public Safety and FEMA**
- 6. Planning Board to Consider Transition of Regulatory Frontal Dune Ordinance 94.03 (Subsection 6) and Identify an Area in the Land Use Section (157) of The Town of Holden Beach Ordinance Book**
- 7. Possible Text Amendment to Town Ordinance 92.32- Decorative Lights & Unnecessary Lighting**
- 8. Comments**
- 9. Adjournment**

**TOWN OF HOLDEN BEACH
PLANNING & ZONING BOARD
February 27, 2024 – 3:30PM**

The Planning & Zoning Board of the Town of Holden Beach met for their Regular Meeting on Tuesday, February 27, 2024 at 3:30 p.m. in the Town Hall Public Assembly. Present were Chair Pete Pallas; Vice Chair Aldo Rovito; Regular Member Wade Coleman; Development Services Officer Janna Pigott; and Plan Reviewer/ Building Inspector Carey Redwine.

CALL TO ORDER

The meeting was called to order at 3:33 p.m.

ROLL CALL

Regular Member Sylvia Pate was absent. Alternate Members Ashley Royal and Mark Francis were absent. All other members were present.

PUBLIC COMMENTS ON AGENDA ITEMS

There were no public comments.

APPROVAL OF MINUTES

Vice Chairman Aldo Rovito motioned to approve the minutes of November 28, 2023; Member Coleman seconded and approved by unanimous vote.

DISCUSSION OF AMENDMENTS TO THE NFIP ORDINANCE- SECTION 154 AS REQUIRED BY FEMA

Building Inspector Redwine presented to the Board suggestions from FEMA and the Department of Public Safety to clean up specific Town Ordinances in the Floodplain Section of the Holden Beach Code of Ordinance Book to follow the Community Rating System guidelines.

Chairman Pete Pallas motioned to approve a public hearing for the proposed Ordinance changes of Section 154; Vice Chairman Aldo Rovito seconded and approved by unanimous vote.

COMMENTS

There were no comments.

ADJOURNMENT

Chairman Pete Pallas motioned to adjourn the meeting at 3:37 p.m.; Vice Chair Aldo Rovito seconded; approved by unanimous vote.

§ 154.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT.

- (A) The Legislature of the State of North Carolina has in ~~Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes~~, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Holden Beach, does ordain as follows:
- (A) The legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Articles 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Holden Beach, does ordain as follows:

§ 154.05 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this chapter, **and all revisions thereto. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three months.**

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter, **and all revisions thereto. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this chapter.**

§ 154.03 DEFINITIONS.

ADD- BREAKAWAY WALLS- Means a wall that is not apart of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any two-year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and the alteration is approved by variance issued pursuant to Section 154.38 of this Ordinance.

§ 154.36 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(B)(11)- A statement that all materials below BFE/RFPE must be flood resistant materials. ~~(Optional).~~

(11) A statement that all materials below BFE/RFPE must be flood resistant materials.

§ 154.21 SPECIFIC STANDARDS.

(E) *Additions/improvements.*

~~(2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.~~

(2) Due to free-of-obstruction requirements in V zone and all AE is regulated as V zone in the Town of Holden Beach.

(I) Tanks. When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

(a) **Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(b) **Above-ground tanks, elevated.** Above ground tanks in flood hazard areas shall be elevated to or above the regular flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(c) **Above ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of § 154.23 shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(d) **Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:

1. At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(J) Other development.

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 154.23.

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 154.23.

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 154.23.

('85 Code, § 8-4.5b.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18; Am. Ord. 20-11, passed 9-3-20; Am. Ord. 21-10, passed 6-15-21) Penalty, see § 154.99

§ 94.03 FRONTAL DUNE POLICIES AND REGULATIONS

(A) *Definition.* For the purpose of this section, town's **FRONTAL DUNES** shall mean the dunes designated by the town's designee 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. The town's **FRONTAL DUNE** although similar may be different than the state's CAMA designated dune.

(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 North Carolina 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 six-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 eight and one-quarter inches and a minimum tread depth of nine inches, and shall meet the requirements of the North Carolina State Building Code.

4. In accordance with North Carolina 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 six-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 one and one-half inch by three and one-half inch (two-by-four) 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; Am. Ord. 20-17, passed 2-16-21; Am. Ord. 21-10, passed 6-15-21)

§ 92.30 DEFINITIONS.

DECORATIVE LIGHTS. Lights used to enhance the appearance of an area rather than to provide illumination. These include Christmas lights and low voltage (less than sixty (60) volts) driveway and landscaping lights.

CURRENT ORDINANCE

§ 92.32 UNLAWFUL LIGHTS.

It shall be unlawful for any outside light to be installed or directed:

- (A) To interfere with the vision of the operator of any motor vehicle on any street or waterway; or cast any amount of direct light more than 15 feet from the footprint of the residence, with the exception of light directed into a pool area.
- (B) Decorative, safety, security uplights or other lights on the south side of oceanfront homes which are set with automatic timers or day/night photocells.
- (C) Decorative lights on the south side of oceanfront homes on walkways and walkway seating.
- (D) Any unnecessary oceanfront lighting during turtle nesting/hatching season from May 1 through October 31.
- (E) That is not in compliance with the provisions of this subchapter.

ORDINANCE WITH PROPOSED REVISIONS

§ 92.32 UNLAWFUL LIGHTS.

It shall be unlawful for any outside light to be installed or directed:

- (A) To interfere with the vision of the operator of any motor vehicle on any street or waterway; or cast any amount of direct light more than 15 feet from the footprint of the residence, with the exception of light directed into a pool area.
- (B) **Decorative**, safety, security uplights or other lights on the south side of oceanfront homes which are set with automatic timers or day/night photocells.
- ~~(C) Decorative lights on the south side of oceanfront homes on walkways and walkway seating.~~
- (D) Any **decorative** and unnecessary oceanfront lighting during turtle nesting/hatching season from May 1 through October 31.
- (E) That is not in compliance with the provisions of this subchapter.

FINAL ORDINANCE AFTER REVISIONS

§ 92.32 UNLAWFUL LIGHTS.

It shall be unlawful for any outside light to be installed or directed:

- (A) To interfere with the vision of the operator of any motor vehicle on any street or waterway; or cast any amount of direct light more than 15 feet from the footprint of the residence, with the exception of light directed into a pool area.
- (B) Safety, security uplights or other lights on the south side of oceanfront homes which are set with automatic timers or day/night photocells.
- (C) Any decorative and unnecessary oceanfront lighting during turtle nesting/hatching season from May 1 through October 31.
- (D) That is not in compliance with the provisions of this subchapter.