

Ordinance 22-00 4**ORDINANCE PROTECTING SAND DUNES**

BE IT ORDAINED by the Board of Aldermen of the Town of North Topsail Beach, North Carolina that the Code of Ordinances be amended by inserting a new Article IV of Chapter 10 and numbering the sections et seq. accordingly. New Article IV to read:

ARTICLE IV. SAND DUNE PROTECTION**§ 10-44 FINDINGS OF FACT AND PURPOSE.**

(a) The sand dunes within the town are a topographical feature unique to coastal areas, and are a tourist attraction as well as a protective barrier against the dangers of wind, flood and erosion. The sand dunes make a vital contribution to the nature and character of the town as a coastal resort community. The town believes the sand dunes should be preserved, and development on the sand dunes within the town controlled in a manner compatible with their preservation.

(b) This article is adopted to preserve and promote the protection of the town by maintaining the existence of natural and constructed dunes that help protect it from the danger of flooding and erosion, and land against the actions of sand, wind and water. The practice of destroying sand dunes and removing vegetation therefrom within the town constitutes a serious threat to the safety of adjacent properties. This article is therefore adopted for the health, safety and welfare of persons living, visiting or sojourning to and in the town, and for the protection of public and private property.

(c) As used in this article, the phrase SAND DUNE shall mean any and all manmade or natural mound of sand, regardless of size. This includes, but is not limited to, natural dunes, man-made or constructed dunes, berms, sand formations created by a beach/dune push or scrape, individual sandbags, sandbag walls, and sandbag revetments.

(d) The term FRONTAL DUNE used in this article shall refer to the first manmade or natural mound of sand landward of the highwater mark of the Atlantic Ocean, regardless of height or width, considered to be the first line of defense against impending tides and/or storm surge.

(Ord. 2015-10, passed 10-1-2015; Ord. -, passed - -)

§ 10-45 CONFLICTS WITH STATE RULES.

If any provision of this article is in conflict with a rule or regulation adopted by the State Coastal Resources Commission dealing with oceanfront erosion control, then the most stringent rule or regulation shall control and apply.

(Ord. 2015-10, passed 10-1-2015; Ord. -, passed - -)

§ 10-46 TERRITORIAL APPLICABILITY.

This article shall apply to sand dunes within the corporate limits and boundaries of Section VII, Item A.
(Ord. 2015-10, passed 10-1-2015)

§ 10-47 EXEMPTIONS.

The provisions of this article do not apply to:

- (a) The removal of sand, seashells or similar materials for souvenir value in such amounts as may be carried upon the person;
- (b) Any activity authorized or allowed by G.S. § 113A-103(5)(b)5. for emergency maintenance and repair.
- (c) Any activity conducted by a federal or state agency for beach renourishment and protection.

(Ord. 2015-10, passed 10-1-2015)

§ 10-48 ENFORCEMENT.

This article shall be enforced by the local Coastal Area Management Act (CAMA) officer and law enforcement officers of the town. If no person is serving in the capacity of local CAMA officer, this article shall be enforced by the ~~Building Inspector~~Town Manager or such person in ~~the Inspections Department~~ as may be designated by the ~~Building Inspector~~Town Manager.

(Ord. 2015-10, passed 10-1-2015)

Statutory reference:

Coastal Area Management Act of 1974, see G.S. 113A-100 et seq.

§ 10-49 DAMAGING SAND DUNES.

(a) (1) It shall be unlawful for any person to walk over, cross over, stand, sit, walk, run, or otherwise loiter upon any sand dune except to cross at an authorized, marked crossover or designated beach access.

(2) It shall be unlawful for any person to place any items, belongings, or beach equipment upon any dune at any time.

(b) It shall be unlawful for any person to damage, destroy or remove any sand dune or part thereof, or to kill, destroy or remove any trees, shrubbery or other vegetation growing on sand dunes, ~~except in the following locations:~~

~~—(1) The area within the foundation perimeter of any existing structure or any structure to be constructed, as shown on the survey or site plan submitted to the Building Inspector as part of the building permit application process, or to the Planning Board as part of the site plan review process.~~

~~—(2) An area around the perimeter of an existing building or proposed principal building not to exceed a width of 12 feet from the building foundation perimeter.~~

~~—(3) The area within the boundaries of existing driveways and parking areas, or d~~ and parking areas to be constructed in accordance with a survey or site plan approved by the Planning Board or other appropriate reviewing town official.

Section VII, Item A.

~~—(4) On commercial, multifamily, group development, or planned unit development site plans that have been approved by the Planning Board (and Board of Aldermen if required), those areas delineated and designated on the site plan for land-disturbing activity, provided such land-disturbing activity is also undertaken pursuant to the Coastal Area Management Act.~~

~~—(5) In hard-surfaced designated recreation areas.~~

~~—(c) Subsection (b) of this section does not apply to any of the following:~~

~~—(1) Landscaping activities and garden plots, provided the original dune contour is not altered.~~

~~—(2) Water, sewage, or wastewater disposal systems and drainfields.~~

~~—(d) For the purposes of this article, a property owner, or his or her agent, shall be entitled to specify, either by means of their permit for crossover construction or by other written communication to the town, the location on their frontal dune of the private crossover they intend to use. If no crossover location on the frontal dune has been so designated by the property owner, or his or her agent, none shall be construed.~~

~~{Ord. 2015-10, passed 10-1-2015; Ord. —, passed —}~~

~~Cross-reference:~~

~~—Vehicles on beaches, see §§ 10-30 et seq.~~

§ 10-50 REPAIRING DAMAGE CAUSED BY VIOLATIONS.

It shall be unlawful to fail to repair or restore dunes or vegetation damaged by not complying with this article. Any dune-disturbing activity shall be immediately repaired in accordance with requirements of the Coastal Area Management Act. Failure to repair damage to dunes and vegetation shall constitute a separate violation for each ~~ten days~~ day that such failure continues after written notification by the ~~CAMA officer~~ Town Manager or designee.

(Ord. 2015-10, passed 10-1-2015)

§ 10-51 CRIMINAL PENALTY.

Any person, ~~firm or corporation~~ who violates any section of this article shall be guilty of a misdemeanor and will be punished by a fine of up to a maximum of \$500, depending on the severity of the damage.

(Ord. 2015-10, passed 10-1-2015)

§ 10-52 CIVIL PENALTY.

If any person, ~~firm or corporation~~ continues to violate or further violates any provision of this article, that person shall be liable to the town for a civil penalty of not less than \$500.

(Ord. 2015-10, passed 10-1-2015)

§ 10-53 SEVERABILITY.

If any section of this article be decided by a court of competent jurisdiction to be unconstitutional or invalid, it shall not affect the validity of this article as a whole, or any section thereof, other than the section so declared to be unconstitutional or invalid.

(Ord. 2015-10, passed 10-1-2015)

This ordinance is effective upon its adoption.
Adopted this the 7th day of September, 2022.

APPROVED:



Joann McDermon, Mayor

(Seal)

ATTEST:



Melinda Mier, Town Clerk

