

Amended by Council action June 8, 2021

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.8 FEES.

2.8.1. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, major and minor subdivision plat approval, zoning amendments, variances, appeals, and other administrative relief, and site plan review. The amount of the fees charged shall be set forth in the Town's fee schedule or as established by resolution of the council files in the Office of the Town Clerk.

2.8.2. Fees established in accordance with subsection 2.8.1, above, shall be paid upon submission of a signed application or notice of appeal.

2.8.3. The town shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement. The town may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by 160D-402, and all such fees shall be used for no other purposes

ARTICLE 3. ADMINISTRATIVE/LEGISLATIVE/QUASI-JUDICIAL AUTHORITY

SECTION 3.1 UDO ADMINISTRATOR.

3.1.1. The UDO Administrator, to be designated by the Town Manager, 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 any premises regulated by this Ordinance at any reasonable time necessary to carry out his/her duties. If the suspected violation involves areas which cannot be viewed from public areas, an administrative search warrant must be obtained from a magistrate or judge authorizing a reasonable inspection. 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. Appeal from his/her decision may be made to the Board of Adjustment. The UDO Administrator may be assisted by other Town staff in performing the duties herein.

3.1.2. In administering the provisions of this Ordinance, the UDO Administrator shall:

3.1.2.1. 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.

3.1.2.2. 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.

3.1.2.3. Conduct pre-application and sketch plan meetings with applicants for development approval as necessary or appropriate in accordance with Section 5.2.

3.1.2.4. 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 along with a report of his/her recommendations as may be required.

3.1.2.5. Review and approve zoning permit applications, minor site plans, minor subdivisions, engineering drawings, and final plats.

3.1.2.6. Provide administrative interpretations of the UDO.

3.1.2.7. Provide nonconformity determinations, including expansions of nonconforming uses and structures.

3.1.2.8. 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; inform the building inspections department designated by the Oak Island Town Council of illegal buildings or of additions, alterations, or structural changes thereto which are not compliant with the UDO; order discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises at reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

3.1.2.9. Maintain the public records of the Planning Board and Board of Adjustment.

3.1.2.10. Perform site inspections.

3.1.2.11. Duties assigned to staff may include but are not limited to:

3.1.2.11.1 drafting and implementing plans and development regulations to be adopted;

3.1.2.11.2 determining whether applications for development approvals are complete;

3.1.2.11.3 receiving and processing applications for development approvals;

3.1.2.11.4 providing notices of applications and hearings;

3.1.2.11.5 making decisions and determinations regarding development regulation implementation;

3.1.2.11.6 determining whether applications for development approvals meet applicable standards as established by law and local ordinance; conducting inspections;

3.1.2.11.7 issuing or denying certificates of occupancy;

3.1.2.11.8 enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations;

3.1.2.11.9 keeping adequate records; and

3.1.2.11.10 any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction pursuant to 160D-402(b).

ARTICLE 1. PURPOSE AND APPLICABILITY

SECTION 1.8 VIOLATION OF UDO REGULATIONS.

1.8.1. Complaints Regarding Violations.

Whenever the UDO Administrator receives a written, signed complaint alleging a violation of the Ordinance, he/she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions will be taken.

1.8.2. Enforcement.

Enforcement is through civil penalty and injunctive relief only. Subject to the provisions of the development regulation, any development regulation may be enforced by any remedy provided by G.S. 160D-404(c).

1.8.3. Persons Liable for Violations.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may jointly and/or independently be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

1.8.4. Procedures Upon Discovery of Violations.

1.8.4.1. If the UDO Administrator finds that any provision of this Ordinance is being violated, he/she shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. When staff determines work or activity has been undertaken in violation of a development regulation or any State law delegated to the town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the

property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property pursuant to 160D-404. Additional written notices may be sent at the UDO Administrator's discretion.

1.8.4.2. The final written notice (and the initial written notice may be the final notice) shall state what action the UDO Administrator intends to take if the violation is not corrected and shall advise that the UDO Administrator's decision or order may be appealed to the Board of Adjustment in accordance with Section 4.10.1.

1.8.4.3. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of the Ordinance or pose a danger to the public health, safety, or welfare, the UDO Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 1.8.5.

1.8.5. Penalties and Remedies for Violations.

1.8.5.1. Violations of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits shall be punishable by a civil penalty in accordance with the fee schedule as set forth in the town's budget or as established by resolution of the Town Council (see Section 2.8). If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt.

1.8.5.2. This Ordinance may also be enforced by any appropriate equitable action.

1.8.5.3. Each day that any violation continues after notification by the UDO Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section. Separate notices will not be provided for each violation.

1.8.5.4. Any one, all, or a combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

1.8.5.5. The assessment of a civil penalty may be appealed to the Board of Adjustment.

1.8.5.6. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation, Oak Island staff, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to

prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premise pursuant to 160D-404(c).

1.8.6. Permit Revocation.

1.8.6.1. Any permit issued under this Ordinance may be revoked by the permit issuing authority (in accordance with the provisions of this section) if the permit recipient fails to (1) develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the permit issuing board, or (2) the permit was issued based on erroneous information. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked.

1.8.6.2. Before permits other than special use may be revoked, the UDO Administrator shall give the permit recipient ten (10) days' notice of intent to revoke the permit, shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations, and shall comply with the notice and hearing requirements set forth in Section 4.3. If the permit is revoked, the UDO Administrator shall provide to the permittee a written statement of the decision and the reasons therefor. Appeals may be made to the Board of Adjustment as provided for in Section 4.10.1. Development approvals may be revoked by notifying the holder in writing stating the reason for the revocation. The town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405.

1.8.6.3. No person may continue to make use of land or building in the manner authorized by any permit issued under this Ordinance after such permit has been revoked in accordance with this Ordinance. Whenever any work or activity subject to regulation or any State law delegated to the town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property; staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. No further work or activity shall take place in violation of a stop-work-order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

ARTICLE 2. GENERAL REGULATIONS

SECTION 2.8 FEES.

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2.8.2. Fees established in accordance with subsection 2.8.1, above, shall be paid upon submission of a signed application or notice of appeal.

ARTICLE 5. DEVELOPMENT REVIEW PROCESS

5.3.9. Inspections and Certificates of Occupancy.

No new building, or part thereof, shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a Certificate of Occupancy.

A certificate of occupancy shall be applied for subsequent to or concurrent with the application for a certificate of zoning compliance, and shall be issued within five (5) business days after the erection or structural alteration of such building or part shall have been completed in conformance with the provisions of this Ordinance. A temporary certificate of occupancy for a portion of a structure may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Building Inspector for a period of time in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8), and copies shall be furnished on request to any persons having a proprietary or tenancy interest in the building or land involved.

Upon completion of work or activity undertaken pursuant to a development approval, Oak Island staff shall make final inspections and issue a certificate of occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-1114 has been issued.

For all developments, excluding single-family and two-family residential uses, prior to the issuance of a certificate of occupancy by the Building Inspector, a final zoning inspection shall be conducted to ensure that the approved plan has been followed and all required improvements have been installed to Town

standards. The Town Council must have accepted all publicly dedicated improvements contingent upon the recordation of the final plat or provision of performance guarantees approved by the Town Council as specified in Section 5.7.4.6.

For Minor Site Plans and Minor Subdivision Final Plats, an as-built survey and as-built construction drawings shall be submitted to the UDO Administrator by the developer upon completion of the building foundation(s) to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the UDO Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied.

Whenever any work or activity subject to regulation or any State law delegated to the town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. No further work or activity shall take place in violation of a stop-work-order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

5.6.5. Certificate of Zoning Compliance/Building Permit.

An application for a certificate of zoning compliance may be requested in advance of or concurrently with an application for a building permit in accordance with Sections 5.3.7 and 5.3.8.

5.6.6. Inspections and Certificates of Occupancy.

No new building, or part thereof, shall be occupied; no addition or enlargement of any existing building shall be occupied; no existing building after being altered or moved shall be occupied; and no change of use shall be made in any existing building or part thereof, until the Building Inspector has issued a Certificate of Occupancy.

A certificate of occupancy shall be applied for subsequent to or concurrent with the application for a certificate of zoning compliance and shall be issued within five (5) business days after the erection or structural alteration of such building or part shall have been completed in conformity with the provisions of this Ordinance. A temporary certificate of occupancy for a portion of a structure may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Building Inspector for a period of time in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8), and copies shall be furnished upon request to any persons having a proprietary or tenancy interest in the building or land involved.

Upon completion of work or activity undertaken pursuant to a development approval, Oak Island staff shall make final inspections and issue a certificate of occupancy if staff finds that the completed work complies with all applicable State and local laws and with the terms of the approval. No building, structure, or use of land that is subject to a building permit shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-1114 has been issued.

For all developments, excluding single-family residential uses, prior to the issuance of a certificate of occupancy by the Building Inspector, a final zoning inspection shall be conducted to ensure that the approved plan has been followed and all required improvements have been installed to Town standards. The Town Council must have accepted all publicly dedicated improvements contingent upon the recordation of the final plat or provision of performance guarantees approved by the Town Council as specified in Section 5.7.4.6.

For Major Site Plans, an as-built survey and as-built construction drawings shall be submitted to the UDO Administrator by the developer upon completion of the building foundation(s), to ensure that setbacks and building orientation match the approved site plan. If the survey shows that the placement of the building is incorrect, then the UDO Administrator shall issue a stop-work order and all construction shall be halted until the problem is remedied.

Appendix A – Definitions

Code official

An employee of the town with responsibility for administration and enforcement of development ordinances.