ORDINANCE NO. 2019-002

BOARD OF COMMISSIONERS
TOWN OF TOPSAIL BEACH, NORTH CAROLINA

DATE: 3-13-19

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE TOWN OF TOPSAIL BEACH, NORTH CAROLINA AMENDING CHAPTER 6, ARTICLE V, OF THE CODE OF ORDINANCES FOR THE TOWN OF TOPSAIL BEACH

The Board of Commissioners of the Town of Topsail Beach, North Carolina at its duly noticed and conducted public hearing held March 13, 2019 ordains as follows:

Chapter 6, Article V, Sections 6-161 through Section 6-169 of the Town of Topsail Beach Code of Ordinances is hereby amended so that it reads in its entirety as follows:

CHAPTER 6 BUILDING CODE

ARTICLE V. - PRIVATE BEACH ACCESS CROSSOVER

Sec. 6-161. - Findings.
(a) The Town Board of Commissioners does hereby find, determine and declare that it is in the best interest of the Town and its citizens to preserve and protect the Dunes System as described in this article located within the town and bordering the waters of the Atlantic Ocean.

(b) The Town of Topsail Beach recognizes the significant value of shoreline management and the protection of the Dune System as it relates to storm damage and flood mitigation.

(c) Pursuant to the adoption of the Town’s Flood Damage Prevention Ordinance and in compliance with 15A NCAC 07H .0306 General Use Standards for Ocean Hazard Areas, design standards and regulations of private beach access crossovers are needed to reduce the impact to the Dune System and protect both private and public property which is of critical importance to the continued stability, health and safety of the residents of Topsail Beach.

Sec. 6-162. - Authority.
This article is adopted pursuant to the authority granted under N.C.G.S. 160A-174 and other applicable provisions of N.C.G.S. 160A.
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Sec. 6-163. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings
ascribed to them in this section, except where the context clearly indicates a different meaning:

“Access Crossover” shall mean those artificial walkways designated as the means of
entry to the beach over the Dune System including any emergency berm
erected on behalf of the town of Topsail Beach.

“Dune System” shall mean primary dune or frontal dune as defined by the North
Carolina Department of Coastal Management and any emergency berm created
by the Town of Topsail Beach.

“Private Access” shall mean an access intended for or restricted to the use of a
particular person, group, or class.

“Structural Integrity” shall mean the ability of a structure to support a designed load
(weight, force, etc...) including its own weight, without breaking or deforming
excessively and assures that the construction will perform its designed function during
reasonable use.

“Vegetation” shall mean any significant plant growth, both naturally occurring
and planted, or along the Dune System such that the plant growth affords
stabilization to the dune system.

Sec. 6-164. - Application

Any person desiring to construct, erect, remodel, reface, relocate, expand or otherwise
alter any private access shall make application to the Town of Topsail Beach Planning
Department for a permit therefor. Applications for permits shall contain or have attached to
them the following information:

a) The street address, lot number, and tax parcel number of the property from which
the private access will be located.

b) Name, address, and telephone number of the applicant, owner of the property, and
the person or contractor constructing the access.

c) A site or plat plan of the property, showing accurate location of the proposed access
in relation to existing structures, property lines and setbacks.

d) Detailed scaled drawings of the plans and specifications of the private access to be
constructed. Such plans shall include but shall not be limited to details of dimensions,
materials to be used and topographical information.

e) Approval/Exemption from the North Carolina Division of Coastal Management
f) Other information as the Zoning Administrator may require to determine compliance with this and other applicable local, state or Federal regulations affecting the construction, erection, remodeling, refacing, relocating, expansion or other alteration thereof.

Sec. 6-165. New Construction
Private access crossovers shall be constructed in accordance with the developments standards as set forth by the North Carolina Department of Coastal Management and the following standards:

a) Walkways shall be elevated a minimum of two feet (2') above the highest elevation of the Dune System to allow dunes to adjust naturally to wind and wave forces, maintaining the stability and formation of the protective dune system.

b) Only the minimal amount of sand may be displaced from the Dune System during the construction of the private access crossover necessary for piling placement. Cutting into the dune system or change in the shape or contour is prohibited.

c) Any vegetation disturbed on the Dune System during the construction of the private access crossover must be entirely replaced within 10 days of completion of the construction.

d) Additional provisions as set forth by the approved permit from the N.C. Division of Coastal Management.

Section 6-166 - Repair and Replacement
Repair and Replacement. All private beach access crossovers must comply with the provisions of this article except as follows:

a) The repair or damage replacement of the access crossover is less than fifty percent (50%) of its structural integrity. The structural integrity of the existing access crossover shall be determined by the Building Inspector.

b) The repair or damage replacement of the walkway of the access crossover is not below the top of the Dune System.

c) The repair or damage replacement of the steps of the private beach access crossover leading to the oceanside of the access crossover are not more than fifty percent (50%) covered by sand.
Section 6-167 – Existing Conditions and Maintenance

1. It shall be unlawful to remove sand from a private beach access crossover that is covered by accumulated sand under any of the following circumstances.

   a) The private beach access crossover is damaged or in disrepair in excess of fifty percent (50%) of its structural integrity.

   b) The walkway of the private beach access crossover is one foot embedded into the top of the Dune System.

   c) The steps of a private beach access crossover are more than fifty percent (50%) embedded into the Dune System.

2. Prior to any removal of sand from a private beach access crossover during maintenance and repair, the building inspector or zoning administrator shall make a preliminary inspection of the access crossover to determine if the sand removal shall be in compliance with Section 6-167(1).

Section 6-168 – Permit

The Building Inspector shall review any applications for construction, erection, remodeling, refacing, relocation, expansion or other alteration of any private access.

Any application for such permit which lacks the requirements of Section 6-164 or which shows non-conformity to the construction standards set forth in Section 6-165 above shall be rejected as either incomplete or non-conforming. Any permit issued shall require conformity to the construction criteria set forth in Section 6-165, shall be conditioned upon conformity to plans and specifications of the application and shall prohibit alterations to the Dune System or emergency berm other than those allowed by regulations promulgated pursuant to these provisions and the provisions of the Coastal Area Management Act. Any such alterations shall require that the affected portions be returned to its condition prior to construction within ten (10) days of such alteration or other disruption.

Section 6-169 – Violation

Any person who shall violate this ordinance, in accordance with 1-6 shall be subject to a civil penalty in an amount of One Hundred Dollars ($100.00) for each offense and any continuing violation thereof shall be deemed a separate offense for each day during or on which the violation shall continue. Any civil penalty shall be payable to the Town of Topsail Beach within 24 hours of issuance of a civil citation. This ordinance may be enforced by injunction and orders of abatement, together with all other remedies available to the Town of Topsail Beach under G.S. 160A-175(c) or other state law.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Topsail Beach that an ordinance of the Board of Commissioners of the Town of Topsail Beach, North Carolina
amending chapter 6, Article V of the code of ordinances for the Town of Topsail Beach, is hereby adopted and shall become effective on March 13, 2019.

Adopted this 13 day of March 2019.

Attest:

Christina Burke
Town Clerk, NCCMC

Howard M. Braxton Jr. Ed.D.
Mayor