

Technical Corrections Ordinance

By Scott Sherrill

A Pine Knoll Shores Technical Corrections Ordinance is making its way through the approval process. The ordinance is, much as its title suggests, not a significant revision of town policies, but changes to bring our ordinances into compliance with a variety of state laws and correct other administrative issues.

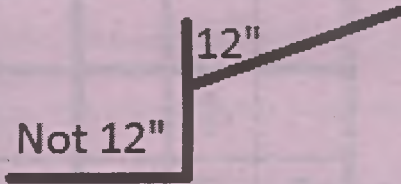
The ordinance is broken down into six articles: signs, administrative technical corrections, legislatively mandated changes, unlisted uses, maximum lot coverage, and severability.

The signs portion of the ordinance removes content-based regulations that we did not catch during the sign ordinance rewrite. It also expands general sign guidelines to clearly govern the MF1 and MF2 zoning districts, and it allows town staff discretion in determining whether or not to remove a sign from the right of way of town streets.

The administrative technical corrections portion of the ordinance acknowledges that the town planner could be a code enforcement official. It also clarifies that the 12-inch height limit for retaining walls is as shown in the graphic to the right. The section also directs appeals to the Board of Adjustment from decisions of the Planning Board, eliminates an annual Community Appearance Commission report, changes a circular reference in the minor landscape permit process, and incorporates the storm water plan into the quasi-judicial findings for major landscape permits.

The legislatively mandated changes are the most significant policy adjustments to the town's ordinances, and they are driven by changes to state law. The first is in regard to storm water: the technical corrections ordinance exempts projects which are subject to state permitting from local storm water requirements; it also eliminates language regarding swimming pools from the storm water section entirely. The second change eliminates protest petitions, in accordance with Session Law 2015-160. Protest petitions, which would have impacted rezonings, have been replaced by citizen comments, which do not necessitate a supermajority vote for approval of the rezoning. The third legislatively mandated change was driven by Session Law 2014-94, which required that counties and municipalities allow temporary family home healthcare structures as accessory uses in single family zoning districts. The fourth legislatively mandated change is driven by the riparian buffer reform components of Session Law 2015-246, and states that setbacks from surface water shall not be more stringent than those set by the state. The town requires that structures be set back from the sound by 100 feet; the state limit is 30 feet. The riparian buffer changes will go into effect January 1, 2017.

The unlisted uses section clarifies procedures to be employed when a use is not in the town's chart of permitted uses. It sets up a staff review, which is appealable to



the Board of Adjustment, to analyze whether or not a proposed use is similar to an existing approved use. If a proposed use fails in the analysis; the ordinance language makes clear that the property owner may submit for a conditional zone or for a text amendment.

The maximum lot coverage component of the ordinance is a temporary fix in considering swimming pools as part of development limits, but separating the pools entirely from storm water requirements. A subcommittee is working to develop a long-term solution.

The final element of the ordinance is an article on severability, which means that if portions of the ordinance were found to be illegal, it would not invalidate the entire ordinance.

Some elements that are left out of the final draft are also important to note, particularly to those who have been following this ordinance through the review process:

- It does not include special use permit procedures, which would primarily impact the commercial structure at 112 Salter Path Road.
- It does not include adjustments to the town's tree diameter requirements, which is also heading to a subcommittee.
- It does not include rezoning adjustments to Roosevelt Beach (this is progressing on the same timeline as the Technical Corrections Ordinance and does not change anything underlying about the zoning district: it only converts the existing conditional use permit to a conditional zone; the Planning Board is separately considering similar adjustments to 114 Salter Path Road, which is part of the Seabrook subdivision, but also taking into account the current use of the property).
- It excludes provisions to bring the town's ordinance into compliance with NCGS 160A-383.1, which prohibits municipalities from completely zoning out manufactured housing (mobile homes), and which imposes additional limits on the regulation of manufactured housing by local governments. The town will look to address this issue separately.

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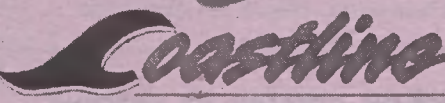
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