



MEMORANDUM

TO: Mayor Ciancio & Members of Town Council
FROM: Joseph M. Cronin, Town Administrator
SUBJECT: Text Amendment for Emergency HVAC Replacements and Variance Fees
MEETING DATE: July 23, 2019

Town Council is asked to consider a proposed amendment to the Development Standards Ordinance (DSO). The primary purpose of this amendment is to revise the encroachment provisions for replacement HVAC equipment and stands. The amendment would also temporarily reduce the application fee for variances while the town is engaged in a comprehensive review and update to the DSO.

This issue rose to the forefront as a result of recent zoning concerns, particularly in multi-family districts. In these areas, many villas and regimes were developed prior to the town's incorporation. As a result, it is not uncommon to find existing units which encroach into the front, side, rear and marsh setback areas. In many instances, the original HVAC equipment was installed below these residential structures. In order to meet current FEMA and state/local building requirements, HVAC units, as well as associated HVAC stands, must be relocated from below the structure.

In some multi-family regimes, it is possible for the front and rear setback areas to overlap, leaving no possible location in which to install the replacement HVAC equipment and stand. While a variance would offer relief to an affected property owner, a variance hearing will typically take 45-60 days from the time of application. If an owner's HVAC unit needs to be replaced during the hot summer months, waiting 45-60 days is not an option.

If approved, the proposed text amendment is intended to achieve the following:

- Delete § 7.60.20.50 (Exceptions to Setbacks) in its entirety. As currently codified, § 7.60.20.50 is listed as a subsection under § 7.60.20 (Single-Family Setbacks). However, the language contained within § 7.60.20.50 is intended to apply to all zoning districts. It is recommended that this language be removed from the Single-Family Setback section and instead be placed within § 7.60.80 (Encroachments). In addition, § 7.60.20.50 currently allows replacement HVAC units and stands to encroach up to 5 feet into a required setback area. For multi-family units which already encroach into a required setback area, this provision offers little relief.
- Amend § 7.60.80 (Encroachments) by adding a new section § 7.60.80.40. The purpose of § 7.60.80.40 is to allow replacement HVAC equipment and stands (which must be relocated in order to meet current FEMA and state/local building codes) to encroach into a required setback area under certain conditions, as follows:

- In any multi-family district, replacement HVAC equipment and stands may extend no further than five (5) feet from the outer wall of an existing multi-family unit, including existing non-conforming units. This provision is intended to offer relief to the owners of existing non-conforming units which may already encroach into a setback area.
- In all other zoning districts, replacement HVAC equipment and stands may encroach up to five (5) feet into a required setback area. This is unchanged from the current ordinance.
- Replacement HVAC equipment and stands which are permitted pursuant to the requirements of this section shall be subject to the following conditions:
 1. The replacement HVAC equipment and stand shall not encroach into a required marsh setback area unless the Zoning Administrator has determined that the HVAC equipment and stand cannot be reasonably accommodated in another location which does not require an encroachment into the required marsh setback area;
 2. The replacement HVAC equipment and stand shall not encroach into any beachfront setback area, as determined by the South Carolina Department of Health and Control (SCDHEC) Office of Ocean and Coastal Resource Management; and
 3. The replacement HVAC equipment and stand shall be screened from public view and buffered so as to minimize noise.
- Lastly, the text amendment will amend the fee schedule contained within § 21.50 ("Attachment A") to reduce the application fee for Variances from \$350.00 to \$150.00.

Staff Recommendation

Staff recommends in favor of **APPROVAL** of the proposed text amendment.

Planning Commission Recommendation

The Planning Commission considered the proposed text amendment during its meeting on June 5, 2019. By a vote of 3-0, the Commission formally recommended in favor of approval of the text amendment.

Respectfully submitted,


Joseph M. Cronin
Town Administrator

TOWN OF SEABROOK ISLAND

ORDINANCE NO. 2019-05

ADOPTED _____

AN ORDINANCE AMENDING THE DEVELOPMENT STANDARDS ORDINANCE OF THE TOWN OF SEABROOK ISLAND, SOUTH CAROLINA; TO DELETE SECTION 7.60.20.50 (EXCEPTIONS TO SETBACKS) IN ITS ENTIRETY; TO AMEND SECTION 7.60.80 (ENCROACHMENTS) SO AS TO ALLOW HEATING, VENTILATION AND AIR CONDITIONING (HVAC) EQUIPMENT AND ASSOCIATED HVAC STANDS TO ENCROACH INTO A REQUIRED SETBACK UNDER CERTAIN CONDITIONS; AND TO AMEND SECTION 21.50 (FEE SCHEDULE) SO AS TO REDUCE THE APPLICATION FEE FOR VARIANCES FROM \$350.00 TO \$150.00

WHEREAS, the Mayor and Council for the Town of Seabrook Island desire to amend the Development Standards Ordinance of the Town of Seabrook Island (DSO) so as to modify the requirements under which heating, ventilation and air conditioning (HVAC) equipment and associated HVAC stands may encroach into a required setback; and

WHEREAS, the Mayor and Council for the Town of Seabrook Island further desire to amend the DSO so as to reduce the fee for variance applications while the Town is engaged in a comprehensive review and rewrite of the DSO; and

WHEREAS, the Seabrook Island Planning Commission reviewed the proposed amendments during a duly called meeting on June 5, 2019, at which time the Planning Commission made a recommendation to the Mayor and Council in favor of approval of the proposed amendments; and

WHEREAS, the Mayor and Council advertised and held a public hearing on the proposed amendments during a duly called meeting on July 23, 2019;

NOW, THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, **BE IT ORDAINED BY THE MAYOR AND COUNCIL FOR THE TOWN OF SEABROOK ISLAND:**

SECTION 1. Deleting Section 7.60.20.50 of the Development Standards Ordinance. The Development Standards Ordinance of the Town of Seabrook Island, South Carolina; Article 7, Lot and Building Requirements; Section 7.60, Minimum Setbacks; is hereby amended so as to delete Section 7.60.20.50 (Exceptions to Setbacks) in its entirety.

~~**§ 7.60.20.50. Exceptions to Setbacks.**~~

~~a) In all zoning districts heating, ventilation and air conditioning (HVAC) equipment and associated HVAC stands may extend up to five (5) feet into the required side or rear setbacks only when all of the following conditions are met:~~

~~1. The HVAC equipment is replacing existing HVAC equipment which was originally placed below an existing structure, and the HVAC equipment being~~

~~replaced is now required to be elevated to meet the requirements of the Federal Emergency Management Agency (FEMA) and the Town of Seabrook Island Building and Zoning Codes;~~

- ~~2. Such HVAC equipment cannot reasonably be accommodated in the Town's determination within the setback required by otherwise applicable zoning requirements;~~
- ~~3. All such HVAC equipment and stand are screened from public view and screened and buffered to minimize noise, and the adequacy and appropriateness of such screening and buffering has been approved by the Town of Seabrook Island Planning Commission and/or its designee;~~
- ~~4. All such HVAC equipment is so placed that it will have the least adverse impact on affected property owners in the area, and the Town of Seabrook Island Planning Commission or its designee has so determined; and~~
- ~~5. A Zoning Permit is approved by the Town of Seabrook Island Zoning Administrator.~~

SECTION 2. Amending Section 7.60.80 of the Development Standards Ordinance. The Development Standards Ordinance of the Town of Seabrook Island, South Carolina; Article 7, Lot and Building Requirements; Section 7.60.80, Encroachments; is hereby amended to read as follows:

§ 7.60.80. Encroachments.

§ 7.60.80.10. Cornices and windowsills may not project into any required setback. Decks, covered decks or porches shall not project into any required setback except as allowed in this Article. In the case of lots having less than seventeen thousand five hundred (17,500) square feet of total area, the eave of the roofline may extend up to eighteen (18) inches into the required setback.

§ 7.60.80.20. Uncovered front steps may extend into a front setback on properties zoned multi-family, but may not be less than twenty (20) feet from the property's front lot line.

§ 7.60.80.30. In the event that a front entry garage is adjacent to the zero-setback property line of a multi-family dwelling, the driveway may be located to provide access to the garage, with the approval of the Zoning Administrator, provided such placement does not affect proper ingress or egress to said property or adjoining properties.

[§ 7.60.80.40. In instances when heating, ventilation and air conditioning \(HVAC\) equipment which located below an existing structure must be relocated upon replacement so as to meet the minimum elevation requirements of the Federal Emergency Management Agency \(FEMA\) and state and local building codes, the Zoning Administrator may permit the replacement HVAC equipment, as well as an associated HVAC stand, to encroach into a required setback, as follows:](#)

- a) In any multi-family district, replacement HVAC equipment and stands may extend no further than five (5) feet from the outer wall of an existing multi-family unit, including existing non-conforming units.
- b) In all other zoning districts, replacement HVAC equipment and stands may encroach up to five (5) feet into a required setback area.
- c) Replacement HVAC equipment and stands which are permitted pursuant to the requirements of this section shall be subject to the following conditions:
 - 4. The replacement HVAC equipment and stand shall not encroach into a required marsh setback area unless the Zoning Administrator has determined that the HVAC equipment and stand cannot be reasonably accommodated in another location which does not require an encroachment into the required marsh setback area;
 - 5. The replacement HVAC equipment and stand shall not encroach into any beachfront setback area, as determined by the South Carolina Department of Health and Control (SCDHEC) Office of Ocean and Coastal Resource Management; and
 - 6. The replacement HVAC equipment and stand shall be screened from public view and buffered so as to minimize noise.

SECTION 3. Amending Section 21.50 of the Development Standards Ordinance. The Development Standards Ordinance of the Town of Seabrook Island, South Carolina; Article 21, Fees; Section 21.50, Fee Schedule; "Attachment A," Fee Schedule; is hereby amended so as to reduce the application fee for Variances from \$350.00 to \$150.00.

SECTION 4. Severability.

If any section, subsection, paragraph, clause, or provision of this ordinance shall be deemed to be unconstitutional, unenforceable, or otherwise invalid by the final decision of a court of competent jurisdiction, it shall be construed to have been the legislative intent of Town Council to pass said ordinance without such unconstitutional provision, and the validity of all remaining sections, subsections, paragraphs, clauses, or provisions of said ordinance shall not be affected thereby. If said ordinance, or any provision thereof, is held by the final decision of a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

SECTION 5. Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. Effective Date.

This ordinance shall be effective upon adoption by Town Council.

SIGNED AND SEALED this ____ day of _____, 2019, having been duly adopted by the Town Council for the Town of Seabrook Island on the ____ day of _____, 2019.

First Reading: June 25, 2019
Public Hearing: July 23, 2019
Second Reading: July 23, 2019

TOWN OF SEABROOK ISLAND

Ronald J. Ciancio, Mayor

ATTEST

Faye Allbritton, Town Clerk