

CHAPTER 1: GENERAL PROVISIONS

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Section 1.1 Purpose & Authority

- A. In accordance with G.S. 153A-340 (Zoning) the purpose of this ordinance is to promote health, safety, morals and the general welfare. This ordinance is adopted pursuant to the authority contained in North Carolina General Statutes Chapter 153A, Article 18 (Planning and Regulation of Development); and Chapter 113A, Article 4 (Sedimentation Pollution Control). See Chapter 6 for Statutory Authorization for floodplain management regulations for participation in the National Flood Insurance Program.
- B. Whenever any provision of this ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this ordinance shall be deemed amended to refer to the amended section(s) of the North Carolina General Statutes or the section(s) that most nearly corresponds to the superseded Section(s) of the North Carolina General Statutes.
- C. These regulations are made in accordance with a land use plan and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers; to prevent the overcrowding of land, to avoid undue concentration of population; and, to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements, to promote desirable living conditions and the sustained stability of neighborhoods, to protect property against blight and depreciation, and to promote aesthetic quality of the community.
- D. See Chapter 6 of this ordinance for effective date details regarding language for regulating development in the special flood hazard areas, as required for participation in the National Flood Insurance Program.

Section 1.2 Title

This ordinance shall be known and may be cited as the "Currituck County Unified Development Ordinance" and the map adopted herein, which is identified by the title "Currituck County Zoning Map".

Section 1.3 Applicability

1.3.1 Affected Territory

This ordinance shall apply to all lands within the County of Currituck borders.

1.3.2 Bona Fide Farms Exempt

- A. The provisions of this ordinance shall not apply to bona fide farms, except that a farm property used for non-farm purposes shall not be exempt from regulation; and the floodplain management provisions of Chapter 6 of this ordinance, regulating development in the special flood hazard areas, as required for participation in the

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National Flood Insurance Program, shall apply to all development including bona fide farms located within special flood hazard areas of Currituck County.

- B. For purposes of this ordinance, a bona fide farm is any tract or tracts of land, one of which must contain at least ten acres, which meets the following criteria:
 - 1. On such property an owner or leasee is actively engaged in a substantial way in the commercial production or growing of crops, plants, livestock, or poultry; and,
 - 2. Such property has produced or yielded, during each of the three immediately preceding years, a gross income from the above-described commercial production or growing of crops, plants, livestock, or poultry (including payments received under Soil Conservation or Land Retirement Programs, but not land rents paid to a non-resident owner) of at least \$1,000.
- C. Uses exempted from regulation except in accordance with Chapter 6 Floodplain Administration regulations shall include any dwelling which is or will be the permanent residence of the owner or owner-occupant of the farm, the permanent residence of the son, daughter, mother, father, grandfather, or grandmother of the owner or the permanent residence of the individual and his/her family where the individual earns at least 75 percent of his/her income from employment on the farm.

1.3.3 Relationship to Previously Adopted Provisions

To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions that they replace in the County's Zoning, Subdivision, or Flood Damage Prevention Ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the repeal of the zoning ordinance.

Section 1.4 Conflict with Other Laws

- A. When regulations made under authority of this ordinance require a greater width or size of yards or courts, or require a lower height of a building or fewer number or stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this ordinance shall govern.
- B. In the event this ordinance conflicts with other provisions of local, state or federal law, that law which provides the greatest protection to environment and natural features shall govern. Where that intent is not clear from a superficial reading of the ordinance and laws, that law or ordinance which is most restrictive shall apply.

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Section 1.5 Effective Date

- A. The provisions in this ordinance are hereby adopted and effective on September 4, 2007. Upon such date, these regulations shall supersede, repeal, and replace the previous “Currituck County Unified Development Ordinance” as adopted on November 16, 1992 and amended through June 2007.
- B. Any subdivision or planned unit development having been given a minimum of sketch plan approval from the Planning Board prior to April 2, 1989 and which has preliminary plat approval for one or more sections and made improvements costing more than five percent of the total project costs shall be subject to the subdivision and planned unit development design standards in effect as of January 1, 1989. This provision shall not apply to sections of those subdivisions or planned unit developments reserved as future development sites where no lot lines are shown. In addition, development occurring on lots within subdivisions and planned unit developments subject to January 1, 1989 subdivision design standards, shall be in accordance with the provisions of these regulations. In areas where multifamily housing and hotel development was designated but no building layout was shown, the density as indicated on the most recently approved plat shall be allowed provided the developer meets current standards to the greatest extent possible.
- C. Any subdivision having been given sketch plan approval prior to April 2, 1989 which has not obtained preliminary plat approval for one or more sections and made improvements costing more than five percent of the total project costs shall be deemed void except as provided by law (vested rights).
- D. See Section 6.2 for effective date details regarding language for regulating development in the special flood hazard areas, as required for participation in the National Flood Insurance Program.

Section 1.6 Official Zoning Map

1.6.1 Establishment

The location and boundaries of zoning districts established by this ordinance are shown on a geographic coverage layer entitled “Zoning” that is maintained as part of the County’s geographic information system (GIS) under the direction of the Planning Director. This “Zoning” geographic coverage layer constitutes Currituck County’s official zoning map, and is as much a part of the ordinance as if actually depicted within the pages of this ordinance. The Planning Director must direct revisions to the official zoning map to reflect its amendment as soon as possible after the effective date of zoning map amendments. No unauthorized person may alter or modify the official zoning map. The Planning Director may authorize printed copies of the official zoning map to be produced, and must

maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

1.6.2 Map Interpretation

- A. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map the following rules shall apply:
1. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;
 2. Boundaries indicated as approximately parallel to the centerlines of streets or other rights-of-way shall be construed as being parallel thereto and at such distance there from or as indicated on the zoning map;
 3. Boundaries indicated as approximately following lot lines, city limits or extraterritorial boundary lines, shall be construed as following such lines, limits or boundaries;
 4. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines;
 5. Where a district boundary divides a lot or where distances are not specifically indicated on the official zoning map, the boundary shall be determined by measurement, using the scale of the official zoning map; and,
 6. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.
- B. Interpretations of the location of floodway and floodplain boundary lines may be made by the Administrator as provided in Chapter 6, Environmental Protection.

Section 1.7 Relationship to the Land Use Plan

It is the intention of the Board of Commissioners that this ordinance implement the planning policies adopted by the board for the county as reflected in the land use plan and other planning documents. While the Board reaffirms its commitment that this ordinance and any amendment to it be in conformity with adopted planning policies, the board hereby expresses its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document, except to the extent that consistency between the plan and ordinances that

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affect areas of environmental concern is required by NCGS 113A-111(Effect of Land Use Plan).

Section 1.8 Conformity with the Ordinance

- A. No person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this ordinance except in nonconforming situations as described in Chapter 16 of this ordinance. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.
- B. No building, land or portion thereof shall be erected, used, moved, or altered except in conformity with the regulations specified for the district in which it is located.
- C. No lot existing upon adoption of this ordinance shall be reduced in size or area below the minimum requirements of the regulating district. Yards or lots created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance.

Section 1.9 Fees

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, conditional use permits, special use permits, floodplain development permits, subdivision plat approval, zoning amendments, variances, and other administrative relief. The amount of the fees charged shall be as set forth in the county's budget or as established by resolution of the Board of Commissioners filed in the office of the County Manager and shall be paid upon submission of a signed application or notice of appeal.

Section 1.10 Computation of Time

- A. Subject to Subsection (C) below, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.
- B. Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

- C. Whenever the administrator or other person is required to take certain action (e.g., mailing or publishing a notice) on or before a specified number of days prior to the occurrence of an event (e.g., a public hearing), then in computing such period, the day of the event shall not be included but the day of the action shall be included. For example, if notice of a public hearing is required to be published at least ten days before the hearing, then notice published on the first of the month would be satisfactory for a hearing on the eleventh. The provisions of Subsection (A) above shall not apply to this subsection.

Section 1.11 Fractional Requirements

When any requirement of this ordinance results in a fraction of a unit, the fraction shall be disregarded.

Section 1.12 Delegation of Authority

Whenever a provision appears requiring the head of a department, administrator, or another officer or employee of the county to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom he has authority. Delegation of authority is not allowed when the provisions of this ordinance expressly prohibit such delegation.

Section 1.13 Use of Words

- A. As used in this ordinance, words importing the masculine gender include the feminine and neuter.
- B. Words used in the singular in this ordinance include the plural and words used in the plural include the singular.

Section 1.14 Severability

The sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

Section 1.15 Incorporation of Planning Documents (PB 08-44, 11-3-08) (PB 09-21, 7-20-09)

The following manuals or plans have been adopted by resolution of the Board of Commissioners and are incorporated herein by reference. While the Board of Commissioners affirms its commitment that this ordinance be in conformity with any

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adopted manual or plan, the board hereby expresses its intent that neither this ordinance nor any amendment to it, or any future action taken by the board, may be challenged on the basis of any alleged nonconformity or inconsistency with any planning document referenced in this section.

- A. Development Review Process Manual
- B. Maple-Barco Small Area Plan