

**Currituck County
PB 10-22
UDO AMENDMENT REQUEST**

Amendments to the Unified Development Ordinance Chapter 2, Zoning Districts to provide additional language for alterations to conditional zoning approvals, clarify the height measurement of parapets, uncovered decks, and observation platforms; Chapter 4 Overlay Districts to correct sign applicability; Chapter 6 Environmental Protection to correct the name of the V-zone certification form; Chapter 8 Parking & Driveways to correct Outer Banks Shopping Center applicability; Chapter 11 Permit & Site Plan Requirements to correct major amendments to permits; Chapter 12 Map and Text Amendments to require owner authorization for all rezonings; Chapter 13 Board of Adjustment to correct the notification procedure for Variance applications; and, Chapter 16 Nonconforming to provide referenced illumination provisions for nonconforming signs.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: That Chapter 2 Zoning Districts is amended by deleting the strikethrough language, adding the following underlined language, and adjusting subsequent lettering:

2.3.8 Alterations to Approval

- A. Except as provided below, changes to an approved application or to the conditions attached to the approved application shall be treated the same as amendments ~~to these regulations or~~ to the zoning map and shall be processed in accordance with the procedure in this ordinance.
- B. The Administrator or designee shall have the delegated authority to approve an administrative amendment change to an approved CD site plan no more than one time. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.**
1. **An insignificant change for nonresidential development is any change that increases the intensity of the development by no more than 5% of the approved requirement or 500 square feet, whichever is less.**
 2. **An insignificant change for residential development is any change that decreases density, increases open space, slight lot line realignments, and slight relocation of streets or drive aisles.**

3. The Administrator shall have the discretion to decline to exercise the delegated authority and require a public hearing before the Board of Commissioners.
4. Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner(s), to the Administrator detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the administrator.
5. If the Administrator denies the requested amendment, then the applicant can appeal that decision to the Planning Board for its review and decision, pursuant to the standard above. If appealed, this requires notification to adjacent property owners within 15 days of the filed appeal. If the Planning Board denies approval of the requested change, then the applicant must file a rezoning petition for an amendment to the site plan to receive further consideration.

2.6.4 2.6.5 Height Requirements

B. The height of parapets, uncovered decks, and observation platforms shall be measured from grade plane to the highest uncovered surface, including the rail or bench, and shall meet the district height limitations set forth in the dimensional requirements of this chapter.

Item 2: That Chapter 4 Overlay Districts is amended by deleting the following strikethrough language:

4.7.4.1 Applicability

These regulations shall apply only to the Outer Banks Overlay District (~~RO1~~) within Poplar Branch Township.

Item 3: That Chapter 6 Environmental Protection is amended by deleting the following strikethrough language and adding the following underlined language:

6.4.6 Coastal High Hazard Areas (Zones VE and V1-30)

E. A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in this Chapter on the current version of the ~~North Carolina~~ “National

Flood Insurance Program V-Zone Certification” Currituck County V-Zone Certification form.

Item 4: That Chapter 8 Parking & Driveways is amended by deleting the following strikethrough language and adding the following underlined language:

Retail	
Shopping Centers	1 space per 200 square feet of gross floor area for 80% of building RO4 Outer Banks Overlay District: 1 space per 200 square feet gross floor area except for restaurants, theaters, and outdoor recreation uses where applicable standards apply.

Item 5: That Chapter 11 Permit & Site Plan Requirements is amended by adding the following underlined language and deleting the following strikethrough language:

Section 11.9 Admendments to Permits

A developer requesting approval of changes shall submit a written request for such approval to the administrator, which request shall identify the changes. The administrator shall determine if the amendment is minor, or major, ~~or is another type of amendment.~~

11.9.2 Major Amendments

- A. Major amendments to the permit (including approved plans) are permissible with the approval of the permit issuing authority and shall be processed as new applications. ~~Such permission may be obtained without a formal application, public hearing, or payment of any additional fee.~~ If such requests are required to be acted upon by the Board of Commissioners, the Planning Board, or Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing the request for an amendment and may then proceed in accordance with the previously approved permit.
- B. For purposes of this section, major amendments are those that have substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development, such as an increase in density, decrease of open space, changing a zoning designation, major shifting of lot lines, and major shifting of streets. This is not intended to be an all inclusive list.

~~11.9.3 Other Amendments~~

- ~~A. All other requests or changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Commissioners, the Planning Board or Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions~~

~~by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.~~

~~B. Whenever a preliminary plat is proposed to be amended or revised either by, but not limited to, changing a zoning designation or for the reallocation of density, the Board of Commissioners shall hold a public hearing prior to amending or revising the plan. Written notification of the public hearing shall be mailed to all recorded property owners whose property will be affected by the change as well as the owners of record of all property any portion of which is within 200 feet of the exterior lines of the phases or areas proposed to be changed.~~

Item 6: That Chapter 12 Map and Text Amendments is amended by adding the following underlined language:

12.5.1 Review Process

B. Application Submittal

The applicant shall submit to the administrator a fee and complete application signed and authorized by the current property owner(s) stating the current and requested zoning of the property. This shall not apply if the applicant is the county or an agent of the county.

Item 7: That Chapter 13 Board of Adjustment is amended by adding the following underlined language and deleting the following strikethrough language:

13.7 Review Process

3. Notice of public hearing shall be given as follows:

- a. The ~~applicant~~ planning staff shall ~~notify by certified mail all~~ provide notice to all property owners within 200 feet of the extreme limits of the ~~subdivision~~ subject site as their names appear in the county tax record at least ~~ten~~ 10 days, but not more than 25 days, prior to the hearing. ~~The applicable names and addresses shall be supplied by the department upon request by the applicant. The applicant shall provide the department with a copy of the notice sent to property owners and post office receipts at least five days prior to the public hearing date.~~ The notice shall include the date, time, place of the board meeting, and nature of the hearing.

Item 8: That Chapter 16 Nonconforming is amended by relocating the following text to a new section by adding the following underlined language and renumbering the remaining text:

16.9.2 Nonconforming, Off-Premise Signs

16.9.2.1 Replacement and Relocation

- A. A nonconforming off-premise sign may be replaced on the same location so long as:
 - 1. The new sign does not exceed the specifications of the nonconforming sign being replaced in terms of height, display surface area, number of sides, setback and illumination.
 - 2. Application for a permit to erect the new sign is made within 180 days after the existing nonconforming sign is removed.
 - 3. The new sign is located within the footprint boundaries of the nonconforming off-premise sign being replaced. In the case of nonconforming on-premise signs, the sign can be relocated on the same property subject to applicable setback standards.

- B. A nonconforming off-premise sign may be relocated on the same lot so long as once relocated, the off-premise sign:
 - 1. Shall not exceed 300 square feet in surface area.
 - 2. Shall not be less than 300 feet from a pre-existing off-premise sign on the same side of the road.
 - 3. Shall not exceed a height, measured from ground level, of 20 feet, unless the sign is placed lower than the road bed, under which circumstances the sign may have a height equal to 20 feet above the road bed, not to exceed 25 feet from ground level.
 - 4. Shall not be located closer than 15 feet to a street right-of-way or within a sight triangle.
 - 5. Shall not be located within the minimum structure side and rear yard setbacks required by Chapter 2.

- C. A nonconforming off-premise sign may be relocated to an adjacent lot so long as once relocated, the off-premise sign:
 - 1. Shall not exceed 300 square feet in surface area.
 - 2. When attached to the wall of a structure shall not exceed 30 percent of the total surface area of the wall on which the sign is located and shall not be located on the same wall as any other off-premise sign.

3. Shall not exceed a height, measured from ground level, of 20 feet, unless the sign is placed lower than the road bed, under which circumstances the sign may have a height equal to 20 feet above the road bed, not to exceed 25 feet from ground level.
4. Shall not extend above any parapet or be placed upon any roof surface, except that for purposes of this subsection, roof surfaces constructed at an angle be regarded as wall space. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of residential structures.
5. Shall not be located closer than 15 feet to a street right-of-way or within a sight triangle.
6. Shall not be located within the minimum structure side and rear yard setbacks required by Chapter 2.
7. Shall not be located within 1,500 feet on the same side of the road of any part of another off-premises sign (other than temporary signs regulated under Chapter 7 or exempt signs on the same side of the road or highway). For purposes of determining the permissible location of an off-premises sign:
 - a. A sign for which a permit authorizing initial construction was issued prior to the permit for the off-premises sign in question shall be regarded as existing from the date the permit for such other sign was issued (unless such permit has expired or been revoked); and,
 - b. A nonconforming sign that has been removed for the purpose of being replaced in accordance with Section 16.9.2 shall be regarded as existing, provided that the sign has not been removed for more than 180 days without application for its replacement having been made as required by this ordinance.
8. Shall not result in a net increase of off-premise signs allowed under this section.
9. Shall be demolished prior to a permit being issued for its replacement. The demolition permit issued for the existing sign shall serve as documentation that the adjacent lot contained an off-premise sign.

16.9.2.2 Maintenance

40. **All off-premise signs** shall meet the following maintenance requirements:

A. All off-premises signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to off-premises freestanding signs, components (supporting structures, back, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment;

B. If an off-premises sign other than a billboard advertises a business, service, commodity, accommodation attraction or other enterprises or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign;

C. If the message portion of an off-premises sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be constructed to prevent the changing of the message of a sign; and,

D. The area within ten feet in all directions of any part of an off-premises freestanding sign shall be kept clear of all debris and all ~~wide~~ **natural** undergrowth more than 12 inches in height.

E. For the purpose of increasing or enhancing the visibility of any off-premises sign, a person shall not damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

1. **Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the North Carolina Department of Transportation;**

2. **On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located; and,**

3. **In any area where such trees or shrubs are required to remain under a permit issued under this ordinance.**

16.9.2.3. Illumination

11. **All off-premise signs** shall meet the following illumination requirements:

- A.** No off-premises sign within 250 feet of a pre-existing residence not owned by the owner of the sign may be illuminated between the hours of 12:00 midnight and 6:00 a.m., unless the impact of such lighting beyond the boundaries of the lot where the sign is located is entirely inconsequential (less than 1.5 foot candles at the lot line). A residence shall be deemed “pre-existing” for the purposes of this subsection if it existed (or construction of the residence had begun) before a permit was issued under the NC State Electrical Code authorizing the installation of the lighting;
- B.** Lighting directed toward an off-premises sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises; and,
- C.** No off-premises sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date, weather conditions, or similar information.

~~12. Shall not necessitate that a person, for the purpose of increasing or enhancing the visibility of any off-premises sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:~~

- ~~i. Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the North Carolina Department of Transportation;~~
- ~~ii. On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located; and,~~
- ~~iii. In any area where such trees or shrubs are required to remain under a permit issued under this ordinance.~~

Item 9: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 10: This ordinance amendment shall be in effect from and after the _____ day of _____, 200__.

Board of Commissioners' Chairman
Attest:

Gwen H. Keene
Clerk to the Board

DATE ADOPTED: _____
MOTION TO ADOPT BY COMMISSIONER: _____
SECONDED BY COMMISSIONER: _____
VOTE: ____AYES ____NAYS _____

PLANNING BOARD DATE: _____
PLANNING BOARD RECOMMENDATION: _____
VOTE: ____AYES ____NAYS _____
ADVERTISEMENT DATE OF PUBLIC HEARING: _____
BOARD OF COMMISSIONERS PUBLIC HEARING: _____
BOARD OF COMMISSIONERS ACTION: _____
POSTED IN UNIFIED DEVELOPMENT ORDINANCE: _____
AMENDMENT NUMBER: _____