

# CHAPTER 4: OVERLAY DISTRICTS

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## **CHAPTER 4: OVERLAY DISTRICTS**

### **Section 4.1 Purpose (PB 08-49, 10/20/08)**

Overlay districts are created to provide additional development standards for specially identified areas. Overlay districts combine with the regulatory provisions of the underlying base zoning district to provide additional or supplementary standards. The following overlay districts are created for this purpose:

PUD Planned Unit Development Overlay  
RAD Residential Airpark Development Overlay  
RET Planned Adult Retirement Overlay  
RMF Residential Multi-family Overlay  
OB Outer Banks Overlay

### **Section 4.2 RESERVED (PB 08-49, 10/20/08)**

This section is reserved for future use.

### **Section 4.3 Planned Unit Development (PUD) Overlay**

#### **4.3.1 Intent**

The purpose of the planned unit development (PUD) is to allow mixed residential and commercial development as a unit and where a more efficient use of the land and additional on-site amenities can be achieved. Planned unit developments (PUD's) are permitted only on sites of at least 50 acres in areas located within the R, RA and RO1 zoning districts.

#### **4.3.2 Uses**

- A. The plans for the PUD shall indicate the particular portions of the tract that the developer intends to develop for residential and commercial purposes as applicable. Each portion of the lot shall then be treated as if it were a separate district, zoned to permit either residential or commercial uses.
- B. One element of each PUD district shall be the residential element that directly corresponds to the specific zoning district, R, RA, or RO1 that it is developed in. Within that portion of the PUD that is developed for residential purposes, all development is bound to, and must comply with, all other residential requirements except for lot size requirements as outlined within this ordinance.
- C. The second element of each PUD district shall be the commercial element, specifically the LBH zoning district. Within that portion of a PUD district that is developed for a commercial purpose, all development is bound to and must comply with all other commercial requirements except for lot size and frontage

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requirements as outlined within this ordinance. Within any area developed as a PUD, not more than 10 percent of the total lot area may be developed for purposes that are permissible only in a LBH zoning district (whichever corresponds to the PUD zoning district in question).

- D. The three PUD districts shall carry the following designations to indicate their component elements:
1. R/LBH
  2. RA/LBH
  3. RO1/LBH

### 4.3.3 Dimensional & Density Requirements (PB 08-49, 10/20/08)

- A. Net acreage shall be determined by on-site evaluation by technical staff, eliminating all areas designated by CAMA as wetlands. Preliminary plats shall require net and gross acreages to be shown by actual survey based upon CAMA designated wetland perimeters.
- B. Residential driveways located in planned unit developments shall maintain a 5 foot side setback at the front property lines when possible and may taper back to no less than 1 foot off side property lines 20 feet back of the front property line.
- C. The below dimensional requirements shall apply to individual lots within the PUD Overlay:

PUD Overlay	Density	Minimum Lot Size		Minimum Yard Requirements			Max. Height	Min. Lot Width
		Min. Lot Size (with centralized water & on-site sewer)	Min. Lot Size (with centralized water & sewer)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)		
R, RA, RO1 components	Max. Density							
	3 DUA	20,000sf	10,000sf*	20	15	25	35	65
<b>LBH Component</b>	<b>See Base Zoning District Requirements</b>							

\*May be reduced to 7,500 square feet if lot size reduction is added to open space per requirements in Section 10.5.4

### 4.3.4 Overlay Special Requirements

- A. Subdivisions within a PUD Overlay are subject to the issuance of a special use permit and the requirements of Chapter 10, Major Subdivisions.

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- B. A special use permit may be approved showing the portion of the tract proposed for commercial uses reserved for future development. No construction on any land may take place within such areas until the special use permit is amended to approve specific plans for such areas.
- C. The two-family and multi-family portions of any PUD may be occupied only in accordance with a schedule approved as part of the special use permit by the Board of Commissioners during the subdivision process relates occupancy of such non-residential portions of the PUD to the completion of a specified percentage number of phases or sections of the residential portion of the development. The purpose and intent of this provision is to ensure that the PUD procedure is not used, intentionally or unintentionally, to create nonresidential uses in areas generally zoned for residential uses except as part of an integrated and well-planned, primarily residential development. In approving a proposed schedule the Board may consider, among other factors, the number of dwelling units proposed for the residential portion of the PUD, the nature and scope of the nonresidential portions of the PUD, the physical relationship of the nonresidential components of the PUD to neighboring properties not within the PUD and whether the nonresidential uses are to be located within pre-existing buildings or is new construction.
- D. All developable lots less than 20,000 square feet in size within a planned unit development shall be connected and serviced by a package tertiary treatment plant.
- E. For developments in a PUD Overlay of 100 or more lots, the developer shall set aside space for community facilities, namely one acre of land with soils suitable for development for each 100 lots. This requirement shall be in excess of the required open space as set forth in Chapter 10. In lieu of dedication of land for open space and/or dedication of land for community facilities, the developer may, at the county's option, make a payment to the county of an amount of money equal in value to the land, as it would be appraised following its subdivision.
- F. Adequate provisions for the collection and disposal of garbage and refuse shall be provided in such a manner that a PUD will be maintained in a clean and orderly appearance.
- G. No buildings or structures shall be allowed to be built in CAMA or adjacent 404 wetlands other than viewing platforms, raised nature walks, boat ramps, piers, docks and other similar structures.

- H. Developers shall not destroy buildings or structures of cultural or historic significance as determined by county technical staff in consultation with state preservation officials.

**4.3.5 Patio Home Developments**

Patio home developments may be created within all districts in planned unit developments. The following design standards and development criteria shall apply to all patio home developments:

- A. The minimum lot size shall be 3,000 square foot.
- B. The maximum allowable lot coverage shall be 80 percent.
- C. The following setbacks shall be required:
  - 1. The minimum front setbacks from the edge of the roadway, or access easement, shall be 22 feet.
  - 2. The minimum separation of principal structures shall be 20 feet as measured wall to wall.
  - 3. Setbacks to principal structures from NCDOT right-of-ways and exterior property lines shall be in accordance with Chapter 2.
  - 4. Where the rear lot line abuts a common open space area, the minimum rear yard may be reduced to not less than ten feet. For purposes of this section, common open space means land that (i) is owned by federal, state, or county government, or the developer of the lot in question or a homeowners association, or is a golf course (ii) is undeveloped for at least a distance of 30 feet from the lot line, excluding golf courses, and (iii) is legally accessible to the owner of the lot in question. Land within a street right-of-way or street easement shall not be regarded as common open space.
  - 5. No eaves or gutters shall extend over the property line.
  - 6. Pools, either detached or attached, shall be setback a minimum of five feet from buildings and lot lines.
  - 7. Any concrete or wooden deck, patio and sidewalk, if no portion of the same extends more than 12 inches above the finished grade, shall be setback a minimum of 2 feet from the property line.
  - 8. No portion of the front or rear of a structure shall be less than 40 feet from the rear or front of another principal structure.

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9. Accessory structures shall have a minimum ten foot separation from another structure.
- D. One structure, containing a maximum of four bedrooms, is permitted on each lot.
- E. A minimum of two parking spaces, meeting the dimensional requirements of Chapter 8, shall be required for each structure.
- F. Unless otherwise specified by this ordinance, sidewalks a minimum of four foot in width shall be provided along at least one side of all roadways for pedestrian access.
- G. Additional fire hydrants shall be installed in accordance with recommendations made by the Currituck County Fire Marshall.
- H. Where easements are required to access structures, the easement shall have a minimum width of 24 feet and be marked "No Parking Fire Lane" and signs provided and maintained. Pavement length shall be 150 foot maximum.

### 4.3.6 PUD Variances

- A. An application for a variance from planned unit development overlay requirements shall be submitted to the Board of Commissioners by filing a copy of the application in the office of the administrator.
- B. A variance from planned unit development overlay requirements may be granted by the Board of Commissioners if it finds the proposed change:
  1. Will not endanger the public health or safety;
  2. Will not injure the value of adjoining or abutting property;
  3. Will be in harmony with the area in which it is located;
  4. Will be in conformity with the Land Use Plan, Thoroughfare Plan, or other plan officially adopted by the board; and,
  5. Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the sketch plan.

- C. In granting variance the Board of Commissioners may attach additional conditions or requirements that will, in its judgment, secure the objective of the standards or requirements so varied or modified.

**Section 4.4 Airport Overlay (AO)** (PB 11-06, 10/17/11)

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**4.4.1 Purpose**

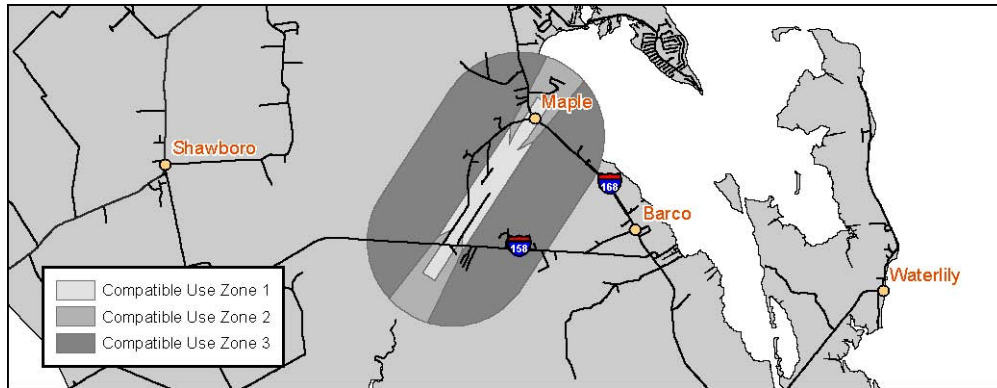
The purpose of the Airport Overlay District is to protect and preserve the Currituck County Regional Airport and surrounding properties from incompatible land uses and to:

- A. Protect and promote the general health, safety, welfare, and economy of the airport area;
- B. Promote and encourage aviation related industries and compatible nonresidential uses to locate in close proximity to the airport;
- C. Protect the character and stability of existing land uses in the vicinity of the airport;
- D. Promote interconnectivity among parcels that encourages the use of multimodal transportation and creates an integrated transportation network;
- E. Preserve natural resources that may be affected by harmful land uses or airport operations;
- F. Promote sustainable development patterns that are consistent with the Maple-Barco Small Area Plan and Airport Layout Plan Update.

**4.4.2 Establishment and Applicability**

- A. Development and use of properties within the Airport Overlay District shall be subject to the standards of this district. In the case of conflict between the standards of the Airport Overlay District and other standards of this Ordinance, the overlay standards shall control.
- B. The following map depicts the approximate location of the Airport Overlay District. In the case of conflict between the map in this subsection and the Official Zoning Map, the Official Zoning Map shall control.

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### 4.4.3 Airport Compatible Use Zone Requirements

In order to promote and encourage aviation related industries and compatible nonresidential uses to locate in close proximity to the airport, the Airport Overlay District is hereby further divided into compatible use zones as recommended by the Federal Aviation Administration and depicted on the Official Zoning Map. The zones and special requirements are hereby established as follows:

- A. Compatible Use Zone 1: Those areas located within the airport runway protection zone.
  - 1. Major subdivisions shall have a maximum gross density of .25 dwelling units per acre. The maximum gross density may be increased to .5 dwelling units per acre provided residential construction techniques are designed and certified by an acoustical professional to achieve a minimum outside to inside noise reduction level of 25 decibels (dB). This performance measure shall be achieved by any suitable combination of building design, materials, or construction standards and shall be recorded with the final plat and as a restrictive covenant.
  - 2. Allowable uses shall be limited to detached single-family dwellings, conservation, agriculture, agriculture-supporting businesses, airport operations, aviation related uses, or nonresidential uses that do not exceed an occupancy of ten people per acre.
- B. Compatible Use Zone 2: Those areas located within the airport approach zone.
  - 1. Major subdivisions shall have a maximum gross density of .33 dwelling units per acre. The maximum gross density may be increased to .66 dwelling units per acre provided residential construction techniques are designed and certified by an acoustical professional to achieve a minimum outside to inside noise reduction level of 25 decibels (dB). This performance measure shall be achieved by any suitable combination of building design, materials, or construction standards and shall be recorded with the final plat and as a restrictive covenant.

2. Allowable uses shall be limited to detached single-family dwellings, conservation, agriculture, agriculture-supporting businesses, airport operations, aviation related uses, or nonresidential uses that do not exceed an occupancy of 40 people per acre.

C. Compatible Use Zone 3: Those areas located within the airport traffic pattern zone.

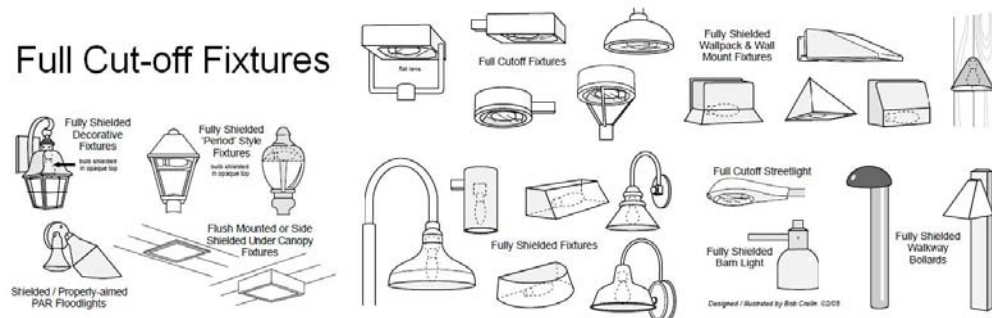
1. The subdivision of land for residential purposes shall be subject to the maximum gross density requirements of the base zoning district.
2. Allowable uses shall be limited to those permitted in the base zoning district.

**4.4.4 Overlay Special Requirements**

The following general standards shall apply to all development in the Airport Overlay District:

A. Lighting

1. Floodlights, spotlights, recreational lighting, or other lighting devices that are not shielded or angled to prevent illumination in an upward direction are prohibited. Exterior luminaries installed or utilized for nonresidential uses shall be full cut-off fixtures.



2. Lighting that makes it difficult for pilots to identify airport lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers or interferes with the landing, takeoff, or maneuvering of aircraft intending to use the airport is prohibited.
3. The provisions of this subsection shall not apply to airport lighting used for navigational purposes in accordance with Federal Aviation Administration requirements.

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### B. Interference

1. Electronic impulses or signals that interfere with radio communications between aircraft and the airport or that interfere with established navigation aids are prohibited.
2. Any operation or use that emits smoke, dust, visible fumes or vapors into the atmosphere that would interfere with the safe navigation of aircraft using the airport is prohibited.

### C. Disclosures

1. Final subdivision plats, master plans, site specific development plans, or any other document filed as part of any approval process with Currituck County shall contain the following disclosure statement: "All or a portion of this property lies within the Airport Overlay District. Persons on the premises may be exposed to noise and other effects as may be inherent in airport operations. Currituck County has placed certain restrictions on development and use of property within this overlay."
2. Real estate transactions involving properties either wholly or partially located within the Airport Overlay District shall give full written disclosure of the restrictions on development and use of property within this overlay to the prospective purchaser in accordance with the N.C. Residential Property Disclosure Act (NCGS 47E). An Airport Overlay Disclosure Form is available in the Currituck County Development Review Process Manual.

### D. Multimodal Transportation

1. An interconnected multimodal transportation system is necessary to promote alternate forms of travel, allow the safe movement of pedestrians between destinations, and provide for passive recreational opportunities. Multimodal connectivity shall be provided to existing or planned street networks, sidewalks, trail systems, or pedestrian destinations as determined by the Technical Review Committee.
2. Within all subdivisions or nonresidential developments, sidewalks shall be required along one side of proposed streets or private drives. The Technical Review Committee may approve an alternative circulation plan provided similar connectivity and accessibility is achieved within the development.

3. Prior to the issuance of any permit for development, parcels abutting US 158 shall reserve a 20 foot public access easement along the property line adjoining the roadway.

E. Natural Resources

1. In no case shall hazardous materials or other harmful substances be stored, handled, treated, used, produced, recycled, or disposed of in a way that would pose a significant hazard to any surface or groundwater resource.
2. The development and use of land shall meet the requirements of the Currituck County Wellhead Protection Plan. Any use or activity determined by the Administrator to pose a significant groundwater hazard to the county's mainland public water supply shall be prohibited.
3. Stormwater management facilities shall be designed, engineered, constructed, and maintained to detract waterfowl. This may include but is not limited to the use of riparian buffers, vegetative benches, wire gridding, or other techniques approved by the Technical Review Committee.

- F. Height Restrictions: in order to carry out the height requirements of this subsection there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the airport. The location and boundaries of the height restriction zones established by this ordinance are shown on a geographic coverage layer "Airport Height Restriction Zones" that is maintained as part of the County's geographic information system (GIS) under the direction of the Planning Director. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones and height limitations are hereby established and defined as follows:

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Zone	Description
Run-way Approach Zone	The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
	Height Restriction
	Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
Transitional Zones	Description
	The transitional zones are the areas beneath the transitional surfaces.
	Height Restriction
Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 18 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.	
Horizontal Zone	Description
	The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transition zones.
	Height Restriction
One hundred fifty feet above the established airport elevation.	
Conical Zone	Description
	The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.
	Height Restriction
Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.	

**4.4.5 Nonconformities**

- A. Any Residential Airpark Development having been given preliminary plat approval prior to October 17, 2011 shall be deemed legally nonconforming and subject to the following requirements:
1. Minimum lot size is 40,000 square feet.
  2. Accessory structures (aircraft hangers) shall not be occupied until the principle structure has received a certificate of occupancy.
  3. Right-of-ways shall be a minimum of 60 feet in width, accommodate both aircraft and vehicles, and must be properly maintained by the developers of the residential airpark or their assigns.
  4. Any associated improvements onto airport property shall be paved and maintenance shall be the responsibility of the developers of the residential airpark or their assigns.

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### Section 4.5 Planned Adult Retirement (RET) Overlay

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#### 4.5.1 Intent (PB 11-07, 11/21/11)

The Planned Adult Retirement Overlay District (RET) may be used only in conjunction with planned adult retirement and/or assisted living community development subject to the issuance of a special use permit. RET designation can be applied for within the following base zoning districts: A, RA, R, RO1, RR and GB. A planned adult retirement community is a tract of land consisting of 10 acres or more under common ownership, containing residential dwelling units (single family, two-family, apartments, condominiums, and similar multi-family dwellings), necessary accessory buildings, and required or permitted social, cultural, recreational, retail, medical, and other commercial type facilities targeted toward retired adults. Properties located within the planned adult retirement overlay will be subject to the requirements of this section in addition to the requirements of the base zoning district.

#### 4.5.2 Uses

- A. A planned adult retirement community may contain assisted living or residential care facilities, and residents may receive long-term and short-term health care and other related services, including but not limited to food service, housekeeping service, and recreational, social and cultural facilities.
- B. Appropriate shops for the convenience of the residents and their guests only, may be part of the development at a ratio of one commercial unit per ten living units not to exceed a maximum of five commercial units. Each commercial unit shall not exceed 1,000 square feet in size.

#### 4.5.3 Dimensional & Density Requirements

- A. Maximum density: the maximum density shall not exceed the following:
  - 1. The density of the base underlying zoning district; or
  - 2. In the case of conversion of a mobile home park or RV park that has a valid conditional use permit or special use permit, one half of the density allowed by the conditional use permit or special use permit, not to exceed a total of 250 dwelling units; and
  - 3. In that portion of the development designated for nursing care institutions density shall not exceed 20 beds per acre.

B. Lot size and coverage is shown in the table below:

<b>Lot Size &amp; Coverage</b>		
Area (sq. ft.)	Min. Width (ft.)	Max. Lot Coverage
5,000	50	60%*

\*with an approved, engineered  
stormwater management system

C. Setback requirements shall be in accordance with district requirements. The minimum separation between single-family structures shall be ten feet.

**4.5.4 Overlay Special Requirements** (PB 11-07, 11/21/11)

- A. A planned adult retirement community may be age-restricted or age-targeted at the discretion of the developer. The homeowner’s association documents and restrictive covenants shall establish the restrictions or targets within the development. It is the responsibility of the community association to manage and enforce the restrictions that are in effect for the community.
- B. The fire marshal of the county shall review each application and make appropriate recommendations for fire protection requirements which may be more stringent than those specified by the uniform standard building code. These recommendations may be made conditions of the special use permit by the Board of Commissioners.
- C. Developments shall be required to be connected to the county water system.
- D. A centralized wastewater treatment system must be utilized where soils are unsuitable for on-site septic systems.
- E. Planned adult retirement communities shall comply with the development criteria for planned unit developments. Exceptions may be applied to developments which are being converted from mobile home parks or RV parks.
- F. In the interest of safety and security, communities may be gated. Therefore access to adjacent properties need not be provided.
- G. The development shall have shaded sidewalks or shaded paved walking paths throughout the development for the safety of the residents.

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- H. Street lighting shall be part of the development for security.
- I. Applicants must provide a source of back up for essential utilities (electric and water) to ensure that minimal service can be maintained during periods of outages.
- J. Full disclosure of services provided is to be given to each prospective buyer.

### **Section 4.6 Residential Multi-Family Development (RMF) Overlay** (PB 09-19, 8/17/09)

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#### **4.6.1 Intent and Location**

- A. The residential multi-family development overlay is designed to provide for medium density residential development with some associated non-residential uses in close proximity to major thoroughfares and commercial zones on the Currituck County mainland. The RMF overlay is designed to have insignificant adverse impacts on surrounding single-family residential development.
- B. The Residential Multi-Family Overlay District shall only be applied for within the Residential and General Business zoning districts (R, RA, RR and GB with overlay).
- C. A special use permit shall be required for all residential multi-family developments.

#### **4.6.2 Uses Allowed**

- A. Apartments, condominiums, townhomes, and duplexes are permitted in a multi-family residential development.
- B. Within any multi-family residential development, not more than ten percent of the total site area may be developed for small scale commercial, service or professional office uses.

#### **4.6.3 Dimensional Requirements**

- A. The following dimensional requirements shall be met. For the purposes of this section, “development area” refers to the total area of contiguous land proposed for development as a single unit; and “lot” refers to a subdivided lot within the development area that accommodates an individual dwelling unit (e.g., townhome or duplex lot):

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Dimensional Criteria	Apartments or Condominiums	Townhomes	Duplexes	Nonresidential Structures
<b>Development Area Requirements</b>				
Min. Area	5 contiguous acres	5 contiguous acres	5 contiguous acres	-
Density <sup>1</sup>	1 unit/10,000 sq. ft.	1 unit/10,000 sq. ft.	1 unit/10,000 sq. ft.	-
Max. Number of Dwelling Units <sup>2</sup>	90	90	90	-
Min. Road Frontage	200'	200'	200'	-
Max. Building Length	160'	160'	-	160'
Min. Perimeter Street Setback	50'	50'	50'	20'
Min. Perimeter Property Line Setback	50'	30'	30'	30'
Min. Vehicular Area Setback	25'	25'	25'	25'
Max. Building Height	35'	35'	35'	35'
<b>Lot Requirements</b>				
Min. Area	-	1,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Min. Width	-	16'	65'	50'
Max. Lot Coverage	-	100%	40%	80%
Min. Building Separation	40'	20'	20'	-

1. CAMA wetlands and adjacent 404 wetlands may not be included in calculating density.
2. Mixed housing types shall be permitted; however, the cumulative number of dwelling units shall not exceed 90 for the multi-family development.

B. Interior setbacks shall meet the underlying zoning district requirements or be established by the developer and approved by the Board of Commissioners as part of the special use permit.

### 4.6.4 Development Standards

- A. There shall be a maximum of one entrance allowed per development onto US Highway 158, NC Highway 168, NC Highway 34, NC Highway 136 or Tulls Creek Road.
- B. Interior streets shall meet North Carolina Department of Transportation, Division of Highways construction standards.
- C. All parking and vehicular use areas shall be paved with either concrete or asphalt. On-street parking is permitted subject to Technical Review Committee approval.
- D. Perimeter development area bufferyards shall be provided in accordance with Chapter 5: Landscaping, Bufferyards & Shading. Individual lot bufferyards shall be established by the administrator.

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- E. All multi-family residential developments shall be required to be serviced by the county public water system.
- F. All multi-family residential developments shall be required to be serviced by a private centralized or de-centralized waste-water system that serves the development or the county owned system (if available). Waste-water treatment facilities shall be located a minimum of 30 feet from exterior property lines and shall be designed to be architecturally compatible with the residential buildings on the site.
- G. All new on-site utilities shall be located underground unless required by the utility to be otherwise.
- H. On-site garbage dumpsters shall be provided subject to the following:
  - 1. Dumpsters must be located to the rear of the principal structure(s);
  - 2. Dumpsters shall be screened on three sides with eight foot tall opaque fencing; and,
  - 3. Dumpsters shall be located to be sufficiently accessed by service vehicles.
- I. All multi-family buildings shall be designed to be architecturally compatible with the surrounding area to the greatest extent possible. Building elevations shall be approved by the Board of Commissioners prior to the issuance of any special use permit subject to the following:
  - 1. Structures shall include vertical and horizontal relief in buildings (roof lines, eaves, bump-outs); variation in exterior architectural materials (siding, roofing); variation in housing styles and types; and inclusion of front porches, projecting bays, or vestibules; and,
  - 2. The general roof shape, ridge and eave heights, and material characteristics proposed shall be visually compatible with the coastal vernacular of the general area (gable and hip roofs, roof dormers, approximate 8/12 roof pitch).
- J. Signage for the multi-family development shall not exceed 1 per entrance, with a maximum size of 32 square feet and maximum height of 8 feet.
- K. There must be one ground-level handicapped accessible dwelling unit required per every ten units. Such handicapped unit shall meet all applicable building code and Americans with Disabilities Act requirements.
- L. Access to any multi-family residential development shall not be through an existing single-family detached residential subdivision.

**4.6.5 Open Space and Amenities**

- A. 35% of the development area must be preserved as open space and meet the minimum open space standards of Chapter 10: Subdivision Requirements.
- B. A portion of the required open space shall be designated and improved for active recreation. Determination of suitable improved active recreation shall be based on the character of the open space land, the estimated age and the recreation needs of persons likely to reside in the development, the costs of installation and maintenance of recreation facilities, and the proximity to existing recreational areas.
- C. Areas of open space reserved for active recreation shall be accessible to all residents through a combination of interconnected sidewalks, multimodal paths, or trails.

**4.6.6 Nonresidential Design Standards**

- A. No individual nonresidential building shall exceed 10,000 square feet in size.
- B. Nonresidential buildings shall be accessible to all residents through a combination of interconnected sidewalks, multimodal paths, or trails. Additionally, internal pedestrian circulation shall be required within all commercial areas through the use of clearly defined walkways.
- C. All nonresidential structures, including mixed use buildings, shall be designed to be architecturally compatible with the residential buildings onsite. Building elevations shall be approved by the administrator prior to the issuance of any zoning permit subject to the following:
  - 1. Large expanses of blank walls shall be avoided. Facades shall incorporate architectural elements that add visual interest, including but not limited to variation in exterior materials; functioning windows and doorways; and, projecting elements such as eaves, cornices, canopies, bays, shadow lines, overhangs, porticos and colonnades.
  - 2. Roofs pitches (approximately 4/12 or greater) and other variations consisting of dormers, bump outs, or entrance features shall be incorporated as architectural features.
  - 3. Corrugated metal building materials shall not be permitted. Architectural grade finished metal may be used as an accent material.
- D. Nonresidential signage shall be limited to 1 freestanding sign not to exceed 32 square feet in size or 8 feet in height. Wall signage shall be allowed in accordance with Chapter 7: Signs.

### Section 4.7 Outer Banks (OB) Overlay

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#### 4.7.1 Intent

The purpose of the outer banks overlay is to preserve and protect unique aspects of the Outer Banks area that do not exist elsewhere in Currituck County, as well as to provide protection from potential hazards associated with the outer banks environment. The base zoning districts of the Currituck Outer Banks are RO1, RO2, GB, and LBH. Properties located within the outer banks overlay will be subject to the requirements of this section in addition to the requirements of the base zoning district.

#### 4.7.2 Uses (PB 09-32, 11/16/09)

- A. Class "A" and Class "B" mobile homes are not permitted uses in this overlay.
- B. Drive-in or drive-through restaurants and restaurants where a majority of sales is by delivery service proposed within the outer banks overlay district shall require a special use permit and shall meet the following requirements:
  - 1. Outdoor speakers shall be setback 50 feet from any property line containing a residential dwelling and shall be subject to the noise ordinance of Currituck County.
  - 2. The materials, scale, height, building facade and colors of the proposed structure shall not dramatically contrast with the predominate style of surrounding structures.
  - 3. The location and type of lighting fixtures utilized shall be the minimum necessary to provide for public safety on-site. Lighting shall be shielded so as to be directed onto the site and not spill-over onto adjoining properties and street right-of-ways.
  - 4. Where feasible, parking shall be located at the side and rear of the building.
  - 5. A traffic impact report shall be submitted addressing methods of ordering, time to process the order, arrival rate of customers, peak demand hour, expected traffic volumes, and the projected impact on existing roads.
- C. Moped rentals and hang gliding businesses may be permitted with a special use permit provided all activities (i.e. money collection, rides, parking, etc.) occur only on the property under control of the operator either by ownership or lease. Such uses shall only be permitted in zoning districts as allowed in the Permitted Uses Table, but shall require a special use permit as opposed to a conditional use permit.

- D. Use or placement of metallic underground storage tanks is prohibited. State or federal approved fiberglass tanks may be installed underground and state or federal approved metallic storage tanks may be installed above ground. Upon the installation of any underground tank, a building permit must be acquired, the county's fire marshal shall be notified and a survey prepared by a North Carolina registered land surveyor must be obtained which shows the exact location of such tank, which survey must be recorded in the office of the Currituck County Register of Deeds prior to the final inspection and a copy forwarded to the fire marshal's office. Metallic water storage tanks and L.P. Gas underground tanks are permitted uses provided the above cited requirements are met (survey recorded).
- E. Domestic horses are prohibited in the Outer Banks Limited Access Residential (RO2) zoning district.

**4.7.3 Dimensional & Density Requirements**

Dimensional & Density requirements shall be the same as the base zoning district or other applicable overlay.

**4.7.4 Special Lighting Requirements for the OB Overlay**

***4.7.4.1 Purpose & Applicability***

- A. The intent of these regulations is to allow installation of exterior lighting that provides adequate illumination for the performance of necessary tasks in the illuminated areas while reducing a dangerous or disabling glare, avoiding the illumination of adjacent or nearby properties, streets and roadways and avoiding the illumination of the night sky. It is also the intent of these regulations to require the conservation of energy and to preclude a utility emergency.
- B. The following lighting is exempt from the requirements of this section:
  - 1. Holiday lighting during the months of November, December and January provided the lighting does not create disabling glare onto adjacent rights-of-way
  - 2. Communication tower lighting
  - 3. Airport or airstrip lighting for navigational purposes
  - 4. Currituck Beach Lighthouse beacon
  - 5. Uplighting of the United States flag, North Carolina flag, or the official Currituck County flag

### 6. Governmental buildings

#### **4.7.4.2 Prohibited Lighting**

- A. Light fixtures that imitate an official highway or traffic control light or sign are prohibited.
- B. Light fixtures in the direct line of vision with any traffic control light or sign are prohibited.
- C. Light fixtures that have a flashing or intermittent pattern of illumination, except for time and temperature displays are prohibited.
- D. Privately owned light fixtures located in the public right-of-way are prohibited.
- E. Light fixtures that are a source of glare by their design, orientation or intensity are prohibited.
- F. Searchlights are prohibited except when used by federal, state or local authority.
- G. Illumination of public beach and estuarine waters from uses that are not water dependent shall be prohibited.
- H. Uplighting of windsocks, fountains, or flags is prohibited excepting the United States flag, North Carolina State flag or the official Currituck County flag.
- I. Structure highlighting is prohibited.
- J. Lights illuminating freestanding residential house signs are prohibited.

#### **4.7.4.3 Compliance**

- A. All new lighting installed after the effective date of this ordinance shall be installed in compliance with the requirements of this ordinance. Any lighting in existence before the effective date of this ordinance that does not comply with the requirements of this ordinance shall be considered legally nonconforming and may remain. All nonconforming lighting shall be governed by the requirements of this chapter and not Chapter 16 Nonconforming Situations.
- B. When poles and support structures are removed and replaced they must be replaced with poles, support structures and luminaries that comply with the requirements of this chapter.

- C. When luminaries are replaced, they must be replaced with luminaries that comply with all provisions of this chapter.
- D. All additions to vehicular accommodation areas shall comply with the requirements of this chapter.
- E. All additions to existing structures shall comply with the requirements of this chapter. When an addition exceeds 30 percent of the total floor area of the existing buildings on the property or 1,000 square feet, whichever is less, then the entire exterior site lighting (building, security, and property) must be upgraded, as necessary, to comply with the requirements of this chapter.
- F. Additions or replacements to exterior lighting will be designed to avoid harsh contrasts in color or lighting levels.
- G. Whenever the permit issuing authority allows or requires a deviation from the presumptive lighting requirements set forth in this ordinance, such deviation shall be allowed solely for health, safety and crime prevention. The deviation shall be in accordance with the light levels, fixture style and placement governed by the Illumination Engineering Society of North America (IESNA) Lighting Handbook 2000 Edition. Certification from a North Carolina Licensed Engineer shall be required for any deviation from this ordinance.
- H. When a change in use occurs and the new use is the same or lower land use classification than the previous use as found in the Permitted Uses Table then the applicant shall not be required to bring the exterior lighting into compliance with this chapter. When the change in use occurs, and the new use is of a higher classification than the previous use as found in the Permitted Uses Table, then exterior site lighting shall comply with the requirements of this chapter.
- I. When a site has been unoccupied for a consecutive period of 270 days the site lighting shall be upgraded to fully comply with this chapter prior to any reoccupation of the site.
- J. Lighting for signage shall be governed by the requirements contained in Chapter 7 and not the requirements of this chapter.

**4.7.4.4 Lighting Design Standards**

- A. All exterior lighting, excluding security lighting, shall be reduced by a minimum of 50 percent after operating hours to decrease unneeded lighting.

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- B. When practicable, all lighting installations will include timers, dimmers and sensors to reduce overall energy consumption.
- C. All exterior luminaries, including security lighting, shall be full cut-off fixtures. In no case shall lighting be directed above a horizontal plane through the lighting fixture.
- D. Vehicular accommodation area lighting (parking area) shall be designed to provide minimum lighting necessary to ensure adequate vision and safety. Such lighting shall not cause disabling glare or direct illumination onto adjacent properties. Lighting levels shall be reduced by a minimum of 50 percent after operating hours.
- E. The maximum height for exterior light fixtures shall be 25 feet above natural grade; but, shall not exceed the building height if the building(s) are less than 25 feet.
- F. Lighting levels for canopies (including gas pump and drive-through banking facilities) shall not be used to attract attention to the business. All canopy lighting shall be recessed into the canopy ceiling so that the bottom of the fixture is flush with the ceiling or shall be a full cut-off fixture. No luminary shall exist on the top or side of the canopy. Lighting levels shall be reduced by a minimum of 50 percent after operating hours.

### ***4.7.4.5 Interior Lighting***

Where interior lighting shining through glass areas is excessive and it illuminates the exterior areas adjacent to the structure, then exterior lighting regulations shall apply when such interior lighting is considered to create an annoying, dangerous or disabling glare.

### ***4.7.4.6 Outdoor Recreational Facility Lighting***

Light fixtures for the recreational use shall include timers to reduce energy consumption. All light fixtures shall be turned off no later than 11:00 p.m., unless otherwise specified.

### ***4.7.4.7 Lighting Measurements***

- A. Lighting levels shall be measured in foot-candles.
- B. All lighting fixtures, excluding street lighting, shall be designed installed and maintained to prevent light trespass. The maximum illumination at the property line shall not exceed 1.5 foot-candles measured at ground level by a measuring device.

- C. The maximum permitted foot-candle shall not exceed 15 at any location on any commercial site.
- D. Measurements of newly installed light fixtures shall account for a light loss factor of 0.75 figured into the calculation. For example, a newly installed fixture that has a meter reading of one initial foot-candle and a light loss factor of 0.75 would calculate to 0.75 maintained foot-candle.

**4.7.4.8 Lighting Plan**

All nonresidential developments shall submit a lighting plan produced by the lighting manufacturer, registered architect or engineer as part of the site plan review process. The lighting plan shall include:

- A. A site plan drawn to a scale of not more than 1 inch equaling 50 feet indicating areas to be illuminated, including but not limited to, building(s), sign(s), vehicular accommodation areas and the locations of all proposed exterior light fixtures.
- B. Drawings of proposed building elevations showing the building height and location and type of light fixtures.
- C. Proposed mounting height of all exterior light fixtures.
- D. Specifications and descriptions for all proposed exterior light fixtures including photometric data, reflectors, angle of cut-off, supports, and poles.
- E. Locations and descriptions of all proposed exterior light fixtures and hours of operation
- F. Analysis and luminance level plans in the form of an iso foot candle or point-by-point grid diagram drawn to scale. The submitted grid plan shall plot lighting levels at ten foot intervals or less. The iso foot candle diagram shall plot foot candles in increments of 0.5 foot-candle or less.

**4.7.5 Dune Development**

- A. No development or use of the significant dunes (any dune which is 25 feet or more in height above sea level) known as Lewark's Hill or Three Sister's Hill (located on the west side of NC 12) may occur.
- B. No development or use of property containing any significant dune(s) may occur until the Administrator is assured that:

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1. No public or private street will be located in relation to a significant dune such that the street is likely to be damaged by erosion or become hazardous due to infiltration of sand; and,
  2. No property may be subdivided so as to create lots that, if developed, would be endangered by the natural migration of sand from a significant dune or would damage or otherwise impair the natural state of the dune (including its evolutionary growth and movement and its natural vegetation).
- C. Any person seeking to subdivide, develop or otherwise use any property containing a significant dune or likely to be effected by a significant dune must present to the Administrator a statement from a licensed geologist containing a geological analysis of the likely impact of the significant dune upon the proposed use or development and certifying whether the conditions set forth in this section are satisfied, given the proposed plans for development.
- D. If, after the statement required above has been submitted, the permit issuing authority concludes that enforcement of the requirements this section above would unduly restrict the property owner's reasonable use of the property, less restrictive means of preserving the significant dune(s) and protecting future development from its hazardous effects shall be recommended. Such property owner shall employ the alternative that will cause the least possible damage or disruption to the significant dune(s) without unduly restricting the reasonable use of the property provided all CAMA and Federal regulations are adhered to. Alternatives to the requirements this section shall include but are not limited to:
1. Avoiding removal or disruption of any existing vegetation on or around the significant dune;
  2. Stabilizing the significant dune by planting and maintaining vegetation especially designed to provide stabilization (See UNC Sea Grant Publication 82-05);
  3. Decreasing the size of the significant dune; and,
  4. Removing the significant dune, where no other method of minimizing its potentially hazardous impact of the proposed use or development is feasible.
- E. No person may remove sand from a significant dune, whether in connection with the development or use of the property upon which the significant dune is located, or in connection with the use or development of any other property, or for any other reason.

**4.7.6 Maritime Forest Guide**

In order to aid barrier island stabilization and to protect the barrier islands of the county from the adverse effects of storms and salt spray; to conserve groundwater, wildlife and recreational resources and to safeguard and enhance property values and public and private investment; the following maritime forest guide is adopted:

- A. Applicability: all development on the Outer Banks subject to the provisions of this ordinance shall comply with the maritime forest guide. For purposes of this guide, clearing of maritime forest is broken down into two stages; one for the developer and the other for the builder. The developer's stage is herein called "Overall Site Preparation and Development" and the builder's stage is referred to as "Individual Lot Design and Building Construction". Further, foresting of timber within a maritime forest shall be subject to the "Overall Site Preparation and Development" standards and shall require sketch plan approval in accordance with this guide.
- B. Overall Site Preparation and Development: before any land clearing or excavation of maritime forest can begin, agencies involved in the plat review process shall be provided sufficient information to assess how the development adheres to the recommendations of this guide. The overriding concern should be to minimize alterations of forest vegetation, topography, and ground water systems. Evaluation of site clearing will be subject to the following general principles:
  - 1. The developer shall be encouraged to leave the largest contiguous area of maritime forest intact, creating as few edges as possible, and to concentrate development in less sensitive areas away from sheer zones, wetlands, and other ecologically important vegetation. Preserved maritime forest will be counted in the open space requirements. Evaluation of site suitability will use the following criteria:
    - a. Unforested land areas shall be considered the most suitable building sites unless such selection would threaten living vegetation by stimulating dune migration or cause extensive salt mist intrusion into the maritime forest or would involve alterations otherwise prohibited;
    - b. The most suitable sites will necessitate the least disturbance of living trees and vegetation. The density, height and variety of the vegetation to be removed shall be considered so as to preserve those forest stands which will provide the most protection from storm and salt spray and maintain the natural diversity of plant species. Reforestation should be considered when deemed necessary;
    - c. Site topography will be evaluated for overall development suitability so that, if possible, all proposed structures can be constructed in harmony with the existing tree cover while maintaining setback requirements. Dune stabilization is encouraged;

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- d. Clearing of forest undergrowth by "bushhogging", burning or any other method is not recommended unless it is absolutely necessary for functional, utilitarian or aesthetic reasons such as nature trails, recreational areas, access to sound or access for spraying;
  - e. Filling of a forest area where approved undergrowth clearing has been permitted is discouraged. However, if it is absolutely necessary, such as for drainage of surface water, then filling is considered appropriate provided that necessary steps are taken to protect remaining vegetation, which may include, but is not limited to, the installation of bulkheads; and,
  - f. The following is not recommended unless it can be shown to have no adverse effect on the specific site's maritime forest: dredging, filling or otherwise altering of wetlands and ponds from their natural state except as specifically allowed by the county. Minor road crossings over wetlands should be avoided except for the sole purpose of providing driveway access to individual lots. Impervious surfaces should not be located within 20 feet of any pond, wetland or navigable waters. No ground absorption waste-water treatment should be located within 50 feet of any pond or wetland.
2. No more than 20 percent of the maritime forest should be cleared for infrastructure purposes such as roads and utilities. Development should be concentrated in such a way that the maximum amount of contiguous forested area remains undisturbed. If the clearing maximum cannot be met, a mitigation plan should be prepared.
  3. Right-of-way widths within the maritime forest should not exceed 45 feet including land cleared for shoulders and drainage, and should follow the natural contours of the land insofar as possible. Curb and gutters should not be installed
- C. Individual Lot Design and Building Construction: before any land clearing or excavation of maritime forest can begin, agencies involved in the building site plan approval process should be provided sufficient information to assess how the development adheres to the recommendations of this guide. As part of the site approval process and before a building site clearing permit is issued, the planning department shall apply the following criteria and limitations on clearing of maritime forest:

1. Trees and undergrowth should not be removed except as required for construction of structures, recreational facilities, accessory use, parking area, driving access, individual or central septic systems and utility service. Likewise, soil disturbing activities and site alteration should not exceed what is necessary to provide for the location of structures, accessory use improvements, driveway access and utility service improvements;
2. Specific lot development and associated forest clearing should be limited by the following maximum allowable clearing percentages based on individual building lot size:

Individual Lot Size Square Foot	Permissible Forest Cleaning
59,999 or less	35%
60,000 to 79,999	30%
80,000 or more	25%

\* If these clearing maximums cannot be met, a mitigation plan should be prepared;

3. The permanent drawdown of ground water, except for wells and alteration of natural drainage patterns, beyond an individual property line is not recommended;
  4. Removal of vegetation providing storm or salt mist protection or acting to stabilize soil or limit dune migration should be minimized; and,
  5. To the maximum extent feasible, utilities should be located to the edge of areas that have been cleared for access and building purposes.
- D. Mitigation Guide: in order to protect and re-establish natural vegetation during and after construction, the following actions are suggested:
1. In any areas where vegetation removal will expose bare ground, a ground stabilization plan should be prepared. Suitable native vegetation cover should be established as soon as possible. While re-forestation is encouraged, the planting of undesirable or exotic vegetation which threatens the remaining native vegetation is not recommended ; and,
  2. To avoid pest and disease damage to remaining vegetation, any broken limbs and scraped or scarred bark occurring during construction should be promptly attended to using accepted horticultural practices.

**4.7.7 Outdoor Storage**

Storage located outside of a completely enclosed structure in the RO2 zoning district shall be completely screened from adjoining properties and street right-of-ways.