



# **GENERAL PROVISIONS**

# Chapter I. General Provisions

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# CHAPTER I.

# GENERAL PROVISIONS

## I.1. TITLE

This Ordinance shall be officially known as the “Unified Development Ordinance of Currituck County, North Carolina” and may be referred to as “the Unified Development Ordinance” or “this Ordinance” or the “UDO.”

## I.2. AUTHORITY

### I.2.1. General Authority

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This Ordinance consolidates the county’s zoning, subdivision, and flood damage prevention regulatory authority as authorized by the North Carolina General Statutes and is adopted in accordance with:

- A.** The authority granted to Currituck County by the General Assembly of the State of North Carolina;
- B.** The North Carolina General Statutes, including:
  - (1)** Chapter 153A, Article 6 (General Police Powers);
  - (2)** Chapter 153A, Article 18 (Planning and Regulation of Development);
  - (3)** Chapter 113A, Article 4 (Sedimentation and Pollution Control);
  - (4)** Chapter 143, Article 21, Part 6 (Floodway Regulations); and
- C.** All other relevant laws of the State of North Carolina.

### I.2.2. References to North Carolina General Statutes

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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this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

## I.3. GENERAL PURPOSE AND INTENT

The purpose of this Ordinance is to protect the public health, safety, and general welfare of the citizens and landowners of Currituck County, and to implement the policies and objectives of county-adopted plans addressing the county’s growth and development. The intent of this Ordinance is more specifically to:

- A.** Foster convenient, compatible, and efficient relationships among land uses;
- B.** Establish new compact, mixed-use community centers in appropriate locations, as identified in adopted plans;
- C.** Better manage or lessen congestion in the streets;
- D.** Ensure the provision of adequate open space between uses for light, air, and fire safety;

**SECTION 1.4: APPLICABILITY AND JURISDICTION**

Subsection 1.4.1: General Applicability

- E.** Improve development quality and the quality of life for county residents and visitors;
- F.** Prevent the overcrowding of land and avoid undue concentrations of population;
- G.** Preserve the character and quality of residential communities while providing increased housing choices indicated in adopted plans, as appropriate;
- H.** Promote desirable living conditions and the sustained stability of communities;
- I.** Protect the county's rural character and agricultural heritage;
- J.** Facilitate the adequate provision of transportation, utilities, parks, recreation, emergency services, and other public facilities;
- K.** Maintain and enhance the character of various districts within the county through an emphasis on design quality;
- L.** Maintain and protect high quality aesthetic standards for development;
- M.** Conserve the value of buildings and land;
- N.** Conserve the natural resources, cultural resources, and environmental quality of the county and its environs, particularly in the Outer Banks;
- O.** Protect development and residents from flooding and other natural hazards; and
- P.** Incorporate and foster sustainable development practices.

**1.4. APPLICABILITY AND JURISDICTION**

**1.4.1. General Applicability**

This Ordinance applies to the development of all lands within the County of Currituck, unless land or development is expressly exempted by a specific section or subsection of this Ordinance.

**1.4.2. Exemptions**

The following are exempted from this Ordinance:

- A.** Bona fide farm lands being used for farming purposes, except that the standards in Section 7.4, Flood Damage Prevention shall apply to bona fide farm lands. A bona fide farm consists of:
  - (1)** The permanent residence of the farm owner, the parent, the grandparent, or the child of the farm owner or owner occupant, provided the owner or owner occupant receives at least 75 percent of their income from the farm.
  - (2)** Lands used for the production of agricultural products or activities related to agricultural products, as defined in Section 106-581.1 of the North Carolina General Statutes.
  - (3)** Land used for the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to Section 106-743.2 of the North Carolina General Statutes.
  - (4)** Lands used for forestry purposes, subject to a forestry management plan.

**SECTION 1.5: CONFORMANCE WITH ADOPTED PLANS**

Subsection 1.4.3: Application to Governmental Units

- B.** Court-ordered subdivisions of land that comply with state law and all relevant requirements of this Ordinance.

**1.4.3. Application to Governmental Units**

Except as stated herein, the provisions of this Ordinance shall apply to:

- A.** Development by the county or its agencies or departments;
- B.** Development of buildings by the State, public colleges or universities, or other political subdivisions of the state, in accordance with the North Carolina General Statutes; and
- C.** Development owned or held in tenancy by the government of the United States, its agencies, departments or corporate services, to the full extent permitted by law.

**1.4.4. No Development Until Compliance with this Ordinance**

- A.** Unless exempted, no land shall be developed without compliance with this Ordinance and all other applicable county, state, and federal regulations.
- B.** No person shall use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under their control, except in accordance with this Ordinance.
- C.** No building, or portion thereof, shall be erected, used, moved, or altered except in conformity with the regulations specified for the zoning district in which it is located.

**1.5. CONFORMANCE WITH ADOPTED PLANS**

**1.5.1. Conformance**

- A.** This Ordinance is intended to ensure that all development within the county’s jurisdiction is consistent with the goals, objectives, policies, strategies, and actions of those county-adopted plans addressing the county’s growth and development, including, but not limited to, the plans identified in Section 1.5.2 below.
- B.** To the extent this Ordinance is or becomes inconsistent with the adopted plans, it should be amended to remain consistent with the adopted plans. It is the intent of the Board of Commissioners that this Ordinance not be challenged on the basis of any alleged inconsistency with an adopted plan, except for areas of environmental concern required by Section 113A-111, North Carolina General Statutes.

**1.5.2. Adopted Plans**

**A. 2006 Land Use Plan**

The Currituck County 2006 Land Use Plan is a county-wide plan, adopted in accordance with the North Carolina Coastal Management Act, serving as the basic policy guide for this Ordinance. The plan contains policy recommendations, goals, objectives, a map depicting desired future land uses, and specific land use recommendations.

**B. Small Area Plans**

- (1)** The Board of Commissioners has adopted the following plans for specific geographic areas and corridors within the county:

**SECTION I.6: RELATIONSHIP WITH OTHER LAWS**

**Subsection I.6.1: Conflicts with Other County Codes or Laws**

- (a) Corolla Village Small Area Plan;
  - (b) The Maple-Barco Small Area Plan; and
  - (c) The U.S. Highway 158 & N.C. Highway 168 Corridor Plan.
- (2) These plans include goals, objectives, policies, and actions related to, and that serve as a guide to, various aspects of development intensity and design within specific geographic areas.

**C. Functional Plans and Documents**

The county has adopted functional plans, documents, and regulations relating to future development (e.g. Administrative Manual), provision of public infrastructure and services (e.g., the Currituck County Stormwater Manual), economic development, and tourism. The county will continue to adopt and amend these types of functional plans, documents and regulations. These plans, documents, and regulations include goals, objectives, policies, and actions related to the form and timing of the county’s growth and development as well as to the location and design of public infrastructure.

**I.6. RELATIONSHIP WITH OTHER LAWS**

**I.6.1. Conflicts with Other County Codes or Laws**

If a provision of this Ordinance is inconsistent with another provision of this Ordinance, or with a provision found in other adopted ordinances of the county, the provision providing the greatest protection to the environment or natural features shall control. In cases where this intent is not clear, then the more restrictive provision shall govern. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

**I.6.2. Conflicts with Private Agreements**

The county may review private agreements, such as those related to maintenance of private common open space set-asides, but the county shall not be responsible for monitoring or enforcing private covenants and restrictions.

**I.6.3. Conflicts with State or Federal Law**

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

**I.6.4. Existing Agreements or Vested Rights**

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing private agreements or vested rights previously adopted or issued in accordance with all applicable laws, provided such agreements or rights are lawfully established and remain in effect.

## **I.7. OFFICIAL ZONING MAP**

### **I.7.1. Generally**

- A.** The Official Zoning Map designates the location and boundaries of the various base zoning and overlay zoning districts established in this Ordinance. The Official Zoning Map shall be kept on file in the Planning and Community Development Department and is available for public inspection during normal business hours. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district classification of land in the county, and shall only be amended in accordance with Section 2.4.3, Zoning Map Amendment, in this Ordinance.
- B.** The Planning and Community Development Department shall maintain digital or printed copies of superseded versions of the Official Zoning Map for historical reference.

### **I.7.2. Incorporated by Reference**

- A.** The Official Zoning Map and all the notations thereon is incorporated herein by reference and made part of this Ordinance.
- B.** The Flood Insurance Rate Maps (FIRM) prepared by the State and the associated Flood Insurance Study (FIS) that were adopted on December 16, 2005 (as amended), are incorporated herein by reference and made part of this Ordinance. Future revisions to the FIS and FIRM panels that do not change flood hazard data within the jurisdictional authority of Currituck County are also adopted by reference and declared to be part of this ordinance.

### **I.7.3. Interpretation of Official Map Boundaries**

The Planning Director shall be responsible for interpretations of the Official Zoning Map in accordance with the standards in Section 2.4.16, Interpretation, and the following standards:

- A.** Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.
- B.** Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving ten feet or less, the zoning boundary shall be interpreted as moving with the property line.
- C.** Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).
- D.** Boundaries shown as approximately following shorelines shall be interpreted to follow the shoreline, even in the event of change.
- E.** Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.

**SECTION 1.7: OFFICIAL ZONING MAP**

**Subsection 1.7.4: Changes to Official Zoning Map**

- F.** If the specific location of a depicted boundary cannot be determined from notations on the Official Zoning Map or application of the above standards, it shall be determined by using the map’s scale to determine the boundary’s distance from other features shown on the map.
- G.** Where the actual locations of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances not covered by this subsection, the Planning Director shall have the authority to interpret the district boundaries (Section 2.4.16, Interpretation).
- H.** Interpretations of the floodplain boundary shall be made by the Planning Director, in accordance with the standards in Section 7.4, Flood Damage Prevention.

**1.7.4. Changes to Official Zoning Map**

Changes made in zoning district boundaries on the Official Zoning Map shall be considered an amendment to this Ordinance and are made in accordance with Section 2.4.3 Map Amendment. Changes shall be entered on the Official Zoning Map by the Planning Director promptly after the amendment is approved by the Board of Commissioners. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Planning Director may enter on the Official Zoning Map notations reflecting the ordinance wording.

**1.7.5. Transition to New Zoning Districts**

On January 1, 2013, land zoned with a zoning district classification from the previous UDO shall be translated or reclassified to one of the zoning district classifications in this Ordinance as set forth in Chapter 3: Zoning Districts. Table 1.7.5, Zoning District Translation Table, summarizes the translation or reclassification of the zoning districts used in the previous UDO to the zoning districts used in this Ordinance. (For example, Table 1.7.5 shows that all lands classified as Basic Residential (R) in the previous UDO (under the column titled “Prior Districts”) are now classified Single-Family Residential-Mainland (SFM) in this Ordinance (under the column titled “New Districts”).)

<b>TABLE 1.7.5: ZONING DISTRICT TRANSLATION TABLE</b>	
<b>PRIOR DISTRICTS</b>	<b>NEW DISTRICTS</b>
Special Districts	
	(RC) Resource Conservation (NEW)
(A) Agricultural	(AG) Agriculture
Residential Districts	
(R) Basic Residential	(SFM) Single-Family Residential – Mainland
(RR) Residential Recreational	
(RO1) Outer Banks Standard Residential	(SFO) Single-Family Residential – Outer Banks
(RO2) Outer Banks Limited Access Residential	(SFR) Single-Family Residential – Outer Banks, Remote
	(SFI) Single-Family Residential – Isolated (NEW)
(RA) Mixed Residential [1]	(MXR) Mixed Residential
Business Districts	
(GB) General Business	(GB) General Business
(C) Commercial	
(LBH) Limited Business Hotels Allowed	(LB) Limited Business

**SECTION I.8: TRANSITIONAL PROVISIONS**

Subsection I.8.1: Effective Date

<b>TABLE I.7.5: ZONING DISTRICT TRANSLATION TABLE</b>	
<b>PRIOR DISTRICTS</b>	<b>NEW DISTRICTS</b>
	(CC) Community Center (NEW)
	(VC) Village Center (NEW)
(LM) Light Manufacturing	(LI) Light Industrial
(HM) Heavy Manufacturing	(HI) Heavy Industrial
Planned Development Districts	
	(PD-R) Planned Development – Residential (NEW)
	(PD-M) Planned Development – Mixed (NEW)
	(PD-O) Planned Development – Outer Banks (NEW)
Overlay Districts	
(PUD) Planned Unit Development Overlay [2]	(PUD) Planned Unit Development Overlay
(RET) Planned Adult Retirement Overlay [2]	(RET) Planned Adult Retirement Overlay
(RMF) Multi-Family Overlay [3]	(DELETED)
(OB) Outer Banks Overlay	
(RAD) Residential Airpark Development	(AP) Airport Overlay
	(CVO) Corolla Village Overlay (placeholder)

NOTES:

- [1] Some of these lands may be re-designated into the Agricultural or Single-Family Residential districts.
- [2] Lands subject to an approved Planned Unit Development Overlay or Planned Adult Retirement Overlay district designation may continue in accordance with an approved master plan, but substantial modifications shall require a zoning map amendment to establish a planned development district in accordance with this Ordinance.
- [3] Lands subject to this overlay district designation will be translated to the new (MXR) Mixed Residential district.

**I.8. TRANSITIONAL PROVISIONS**

**I.8.1. Effective Date**

This Ordinance shall become effective on January 1, 2013, and repeals and replaces the Currituck County Unified Development Ordinance, as originally adopted on September 4, 2007, and subsequently amended.

**I.8.2. Violations Continue**

- A.** Any violation of the previous UDO shall continue to be a violation under this Ordinance unless the development complies with the express terms of this Ordinance.
- B.** Any violation of the previous UDO that is no longer a violation under the new UDO shall not be considered a violation.
- C.** Violations of this UDO shall be subject to the penalties set forth in Chapter 9: Enforcement, unless the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

**I.8.3. Complete Applications**

- A.** Any development application submitted and accepted as complete before January 1, 2013, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such an application is approved and proposes development that does not

comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Chapter 8: Nonconformities.

- B.** Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.
- C.** An applicant with a pending application accepted before January 1, 2013 may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

#### **I.8.4. Approved Applications**

Any development approvals granted before January 1, 2013 shall remain valid until their expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired. If the prior approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Chapter 8: Nonconformities.

#### **I.8.5. Approved Conditional Use Zoning District**

- A.** Lands subject to a conditional use zoning classification before January 1, 2013 shall retain the conditional use zoning district classification and shall be subject to the existing conditions of approval.
- B.** To the extent a landowner proposes development that is different than what is allowed in the existing conditional use zoning district, the land requires approval of a zoning map amendment (see Section 2.4.3, Zoning Map Amendment) in accordance with this Ordinance.

#### **I.8.6. Approved Planned Unit Development District Overlay and Sketch Plan**

- A.** Lands subject to approval of a planned unit development district overlay classification and sketch plan approval before January 1, 2013 shall retain the Planned Unit Development Overlay district classification and sketch plan approval, and may be developed consistent with the sketch plan approval and any relevant conditions of approval, until the sketch plan approval or any portion thereof expires. If the sketch plan approval (or any portion thereof) expires or is revoked (e.g., for failure to comply with a term or condition of approval) any subsequent development of the site (or portion thereof) shall be applied for in accordance with the procedures and standards of this Ordinance.
- B.** An owner of a parcel proposed for redevelopment, vacant parcel, or phase of a planned unit development subject to an approved sketch plan may submit a development application or application to amend the approved sketch plan or special

**SECTION I.8: TRANSITIONAL PROVISIONS**

**Subsection I.8.6: Approved Planned Unit Development District Overlay and Sketch Plan**

use permit consistent with the applicable conditions of approval and compliance with the following:

**(1) Bulk and Dimensional Requirements**

Development applications or modifications to an approved sketch plan shall comply with the standards in Table I.8.6.A, Bulk and Dimensional Standards.

<b>TABLE I.8.6.A: BULK AND DIMENSIONAL STANDARDS</b>	
<b>SITE CHARACTERISTIC</b>	<b>STANDARD</b>
Minimum Lot Area (square feet)	10,000 with central sewer [1]; 20,000 without central sewer
Minimum Lot Width (feet)	65
Maximum Lot Coverage (%)	Nonresidential: 65 Residential: 30 for lots larger than 19,000 sf 35 for lots 10,000 sf – 19,000 sf 45 for lots less than 10,000 sf
Minimum Front Setback (feet)	20
Minimum Side Setback (feet)	10
Minimum Rear Setback (feet)	25; 10 when abutting open space
Maximum Building Height (feet)	35
Maximum Density (du/ac)	3
Maximum Nonresidential FAR (%)	0.40
Minimum Open Space Set-Aside (%)	35 [2]
Maximum Land Area Occupied by Commercial Development (%)	10

**NOTES:**

[1] May be reduced in accordance with Section 3.2.2, Zero Lot Line Development or if lot size reduction is added to the minimum open space set-aside.

[2] No modification to an approved sketch plan shall result in a planned development with less than 35 percent of its land area occupied by open space.

**(2) Allowable Uses**

The range of principal uses allowed on a site subject to a modified sketch plan shall be limited to the following:

- (a)** Land designated for residential development shall be limited to the allowable uses for the SFO district listed in Table 4.1.1, Summary Use Table.
- (b)** Land designated for commercial or multi-family development shall be limited to the allowable uses for the PD-O district listed in Table 4.1.1, Summary Use Table.
- (c)** Airports, major utilities, wind energy facilities, outdoor recreation/entertainment uses, and vehicle sales and services require approval of a use permit.

**SECTION I.9: SEVERABILITY**

Subsection I.8.7: Existing Nonconformities

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**(3) Development Standards**

Development associated with a development application or modified sketch plan shall comply with the standards in Chapter 5: Development Standards, Chapter 6: Subdivision and Infrastructure, and Chapter 7: Environmental Protection provided compliance with the standards does not have the effect of decreasing the type, density, or intensity of land designation contained in the approved master plan establishing the planned unit development.

- C.** Sketch plan amendment applications that comply with the land designations contained in the approved master plan establishing the planned unit development and development applications that comply with Subsection (B) above may be approved by the Planning Director.
- D.** To the extent a landowner proposes development that is different than that allowed in the sketch plan or Subsection (B) above, the land requires approval of an amended sketch plan and use permit (see Section 2.4.6, Use Permit).

**I.8.7. Existing Nonconformities**

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If any use, structure, lot, or sign legally existed on January 1, 2013, but does not fully comply with the standards of this Ordinance, the use, structure, lot, sign, or site feature is considered nonconforming under this Ordinance and shall comply with the requirements in Chapter 8: Nonconformities.

**I.9. SEVERABILITY**

It is the legislative intent of the Board of Commissioners in adopting this Ordinance that all provisions shall regulate development in accordance with the existing and future needs of the county as established in this Ordinance, and promote the public health, safety, and general welfare of the land owners and residents of the county. If any section, subsection, sentence, boundary, or clause of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and any section, subsection, sentence, boundary, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, boundaries, clauses, or phrases are declared invalid.