

**AN ORDINANCE AMENDING THE KITTY HAWK TOWN CODE**

WHEREAS, the proposed amendments will allow the Town to better regulate temporary signage; and

WHEREAS, the proposed amendments will reduce potential for visual obstructions; and

WHEREAS, the Town Council of Kitty Hawk has found this amendment to be consistent with the Town's adopted CAMA Land Use Plan.

BE IT ORDAINED by the Town Council of Kitty Hawk that Section 42-502 and 18-11 of the Kitty Hawk Town Code be amended as follows:

**42-502. Temporary uses.**

The town council may approve, as conditional uses under the application provisions of section 42-99, the following temporary uses notwithstanding other restrictions of this chapter, but including such additional conditions and safeguards as may be required by the council as a provision of such approval:

- (3) The sale of Christmas trees and wreaths (whether natural or artificial) during the period beginning November 1 and ending December 31 of each year, subject to the following terms and conditions:
  - a. A temporary use permit must be obtained from the town planning department. The town manager and planning staff members designated by the town manager shall be authorized to issue temporary use permits. If a temporary use permit application is denied by the town planning department, the applicant may appeal the denial to the town council at its next regular meeting by filing a written request to be on the town council agenda with the town clerk at least seven days prior to the next regular meeting of the town council and by also informing the town planner of the appeal to the next regular meeting. The town council will approve, deny or defer action on the application until a subsequent meeting;
  - b. No trees or wreaths shall be located within the town or state rights-of-way or in sidewalks or fire lanes;
  - c. The temporary use activity may utilize not more than 20 percent of the required parking on site as well as the open space areas and excess parking areas;
  - d. No Christmas tree sales shall be conducted after 11:00 p.m. and prior to 8:00 a.m.;
  - e. No music shall be produced on the site with the temporary use which music is audible beyond the property lines of the lot on which the Christmas tree sales are being conducted;
  - f. ~~Any signs used in connection with the temporary use activity must meet current standards of this chapter and applicable sign permit requirements;~~

- f. Signs allowed with this temporary use are: 1 banner up to 36 square feet, 1 small sign up to 16 square feet each for every 25 feet of road frontage with a maximum of 4 signs per lot.**
- g. No signs allowed by this section shall be placed in the right of way**
- g.h** All exterior light generated in connection with the temporary use activity must be contained on the site and exterior lights must comply with current town standards;
- h.i** The temporary use can occur only on commercially zoned property, and the issuance of a temporary use permit to an applicant does not create a vested right for approval of temporary use permits in subsequent years. The town may deny a temporary use permit who had temporary use permit violations in the prior year which were not corrected as required by the town planner;
- i.j** An application must be submitted for each calendar year, and a deposit of \$100.00 must be made with the town planner before the issuance of the temporary use permit. The applicant shall remove all Christmas trees and other materials in connection with the temporary use within ten days following the expiration of the permit. If the trees and materials are not removed, then the town may remove the material and trees and deduct the cost of such removal from the \$100.00 deposit held by the town. The deposit or balance remaining from the deposit after deducting the aforesaid cost will be refunded to the applicant;
- j.k** Trailers or vehicles used to transport trees and materials to the site of the temporary use shall be concealed from observation from town streets to state rights-of-way; and
- k.l** In the event of a conflict between the provisions of this section and chapter 16, pertaining to licensing and business regulations, then the provisions of this section shall control.

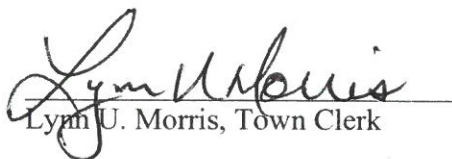
(4) Temporary sales of lawn and garden supplies.

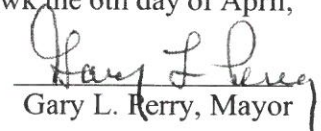
- a. Sales of lawn and garden supplies and equipment may be allowed as a temporary conditional use only in the BC-3 zoning district subject to the standards and requirements set forth herein.
- b. The applicant shall complete the temporary conditional use application setting forth the square footage of the site being designated as the temporary conditional use of garden and lawn center sales, the period of time that the applicant desires to conduct the temporary conditional use, and such other information contained on the application submitted for the temporary conditional use permit and information deemed necessary by town staff to complete the application.
- c. The applicant must designate the location where the proposed temporary conditional use will be conducted on the approved site plan.



- d. The duration of a temporary conditional use permit issued pursuant to this subsection shall not exceed 120 days.
- e. No additional lighting shall be allowed on the site for the temporary conditional use.
- f. ~~All signs, banners and advertising displays must comply with the requirements of this chapter. The maximum sign area authorized by this chapter shall not be exceeded.~~ **Signs allowed with this temporary use are: 1 banner up to 36 square feet, 1 small sign up to 16 square feet each for every 25 feet of road frontage with a maximum of 4 signs per lot.**
- g. **No signs allowed by this section shall be placed in the right of way**
- gh. Parking for the temporary use shall not be allowed in public or private rights-of-way, fire lanes or travel lanes designated on approved site plan.
- hi. Only the parking spaces in excess of the minimum required shall be used for the temporary sales of lawn and garden supplies.
- ij. The temporary sales of lawn and garden supplies can be permitted administratively by the planning and inspections department on an annual basis when the proposal is of the same scale, location, and configuration as approved during previous year by town council. If a code violation related to the temporary use has been noted during the previous year, then the application for a conditional use permit is not eligible for administrative review and must proceed through the traditional approval process for conditional uses outlined in section 42-99.

This ordinance amending the Kitty Hawk Town Code shall take effect the 6th day of April, 2021. Passed and adopted at a regular meeting held by the Town Council of Kitty Hawk the 6th day of April, 2021, with a 5 to 0 vote.

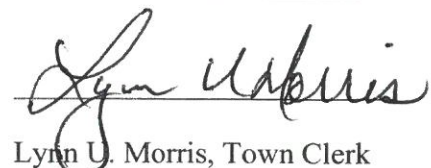
  
Lynn U. Morris, Town Clerk

  
Gary L. Perry, Mayor

APPROVED AS TO FORM:

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Casey Varnell, Town Attorney

The undersigned certifies that the forgoing official ordinance designated ORDINANCE AMENDMENT OF THE TOWN OF KITTY HAWK, NORTH CAROLINA was filed in the Kitty Hawk Ordinance Book on the 9<sup>th</sup> day of July, 2021, at 11 o'clock a.m.

  
Lynn U. Morris, Town Clerk