

AN ORDINANCE AMENDING THE KITTY HAWK TOWN CODE

WHEREAS, Town Council has found that the intent of the outdoor events and gatherings ordinance required clarification and additional regulations; and

WHEREAS, outdoor events should require adequate public safety measures be planned; 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 18-11 Kitty Hawk Town Code be amended as follows:

Sec. 18-11. Outdoor events.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Applicant means any person, group or organization that sponsors, organizes or arranges an outdoor event.

Outdoor event means any event or gathering that occurs outdoors and that:

- (1) Represents a use or uses of land, buildings and structures not intended to be of a permanent duration;
 - (2) Is ~~intended to~~ or likely to attract substantial crowds, participants and/or spectators;
 - (3) Is advertised and/or open to the general public;
 - (4) Is held to promote or is sponsored by a commercial business; and
 - (5) Is unlike the customary or usual activities generally associated with the principal use of the property where the outdoor event or gathering is to be located.
- (b) *Permit requirements.* No outdoor event shall be held, commenced or advertised until such time as a permit is applied for and issued in accordance with this section. A permit issued under this section shall be valid for a period of ~~two~~ **seven** consecutive days. All outdoor events shall be contained either within the applicant's property or within property upon which the applicant has written permission from the owner to use. If live music or electric sound amplification is being proposed in conjunction with the outdoor event, the applicant must comply with section 18-2. Outdoor event permits are limited to ~~six~~ **two** permits per parcel in a twelve month period.
- (c) *Permit application.* Applicants, if required under subsection (b) of this section, shall submit a permit application to the town planning department. Such application shall be presented not less than 15 days prior to the scheduled event and shall contain the following information:
- (1) The name and address of the applicant;
 - (2) The address of the location of the outdoor event;
 - (3) The days and hours for which the permit is desired;

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- (4) A designation, by reference to identifiable landmarks along with a detailed map, drawn to a scale of at least one-inch equals 50 feet describing the approximate area in which such event will be contained, such area to include that required for parking, the event itself, concession areas and any other related activities;
 - (5) An estimate of the anticipated attendance of both participants and spectators;
 - (6) The number of restroom facilities, including handicapped restroom facilities. This number should correspond with the estimated total attendance;
 - (7) In summary format, the general plans of the applicant and sponsor concerning the following matters:
 - a. Crowd control procedures;
 - b. Traffic and parking control; **areas utilized for outdoor events shall be closed to vehicular traffic**
 - c. The impact of the event on existing parking areas, streets, highways and the burden placed upon public agencies for traffic and crowd security and control;
 - d. The effects of such event on fire control and fire prevention, including safety precautions;
 - e. **Provisions for securing any tents or canopies associated with the event;**
 - f. Provisions for emergency medical services and first aid;
 - g. Provisions for collection and disposal of solid wastes, including trash and garbage and sanitary provisions, including human waste collection and disposal and the providing of sanitary facilities;
 - h. Provisions for returning the site to its pre-event conditions, including, but not limited to, the removal of all debris and trash immediately after the event;**
 - (8) The number and types of concessions;
 - (9) The amount, type, and location of temporary signage, subject to the following:
 - a. The total amount of temporary signage shall not exceed 250 square feet in area. Such signage may be in a single sign or a combination of signs;
 - b. All temporary signs shall be located within the boundaries of the area in which the event will be held;
 - c. Temporary signs may not include sandwich boards, inflatable signs, and tethered balloons;
 - d. Temporary signs shall not be illuminated;
 - e. Temporary signs shall be displayed only during the actual time period of the event and shall be promptly removed by the permittee at the close of said event;
 - f. Temporary signs shall not be located in a manner that impedes the ingress and egress movement of pedestrians or life safety vehicles to and from all areas of the event.
- (d) *Permit letting procedures.*
- (1) In determining whether or not to issue such permit, the town manager, **or designee**, shall consider those items required to be presented in the permit and shall also consider:
 - a. Conflicts and possible conflicts with other commercial events;

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- b. The burden placed by the commercial event on public agencies;
- c. The adequacy of security, traffic control and crowd control provisions;
- d. The health and safety conditions for those attending the commercial event; and
- e. The capacity of the area designated for the event to contain the expected number of vehicles, participants, and spectators.

~~(2) If needed, the town manager shall, upon receipt of an application for a permit, confer with the applicant to determine any other matters deemed relevant by the town manager and to obtain more specific information concerning any item presented in the permit.~~

~~(3)~~(2) The town manager, **or designee**, shall issue a permit when ~~he finds~~ **it is found** that the proposed activity:

- a. Will not unreasonably interfere with the rights of the general public in having free access along public ways and streets;
- b. Will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation and that adequate public services are available for crowd and traffic security and control;
- c. Is not reasonably anticipated to incite violence, crime or disorderly conduct;
- d. Will not entail extraordinary or burdensome expense or operations on the fire and police departments and other public agencies; and
- e. Will not interfere with other scheduled events.

(4) In addition, the town manager, **or designee**, must find that the provisions and plans for crowd and traffic control and security, health and sanitation and all matters required to be included in the permit application are adequate and that the applicant and sponsor have the reasonable capability of carrying out such plans and preparations.

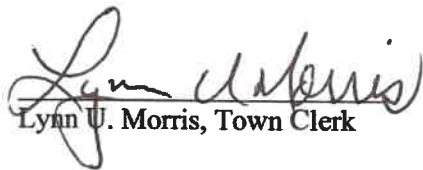
(e) *Permit form.* The town manager, **or designee**, after due consideration of the matters contained in this section, shall either grant or deny such permit within five working days after submission of an application. The granting of a permit shall be by letter to the applicant setting out all conditions of the permit and incorporating any provisions or conditions in addition to statements and presentations in the permit application. Any deviation from the terms and conditions of the permit, or the approved statements contained in the application, or any misstatement of fact made in such application shall be grounds for immediate revocation of the permit at any time by the town manager.

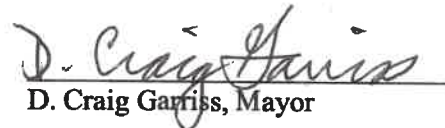
(f) *Permit denial.* In the event the town manager, **or designee**, denies such permit, or subsequently revokes the permit, the applicant shall have seven days in which to appeal such denial or revocation to the town council. Such appeal shall be in writing, stating the grounds thereof and shall be addressed to the mayor and town council with a copy to the town manager. The town council shall hear the appeal at the next regularly scheduled meeting. The decision of the town council shall be final.

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- (g) *Permit not grounds for other violations.* The granting of an application is not grounds for the violation of any other ordinance of the town and the applicant shall take whatever steps are necessary to comply with all ordinances of the town, including section 18-2 regulating noise, section 18-10 regulating parades and demonstrations, and article IV of chapter 36 regulation parades. As a condition of approval, the applicant shall notify the town two hours prior to the commercial event that the site is ready for inspection. The town may inspect the site prior to, during, and after the commercial event to verify compliance with this section, the issued permit and all applicable town regulations. Failure to make provisions for complying with this Code shall be grounds for revocation under this section.
- (h) *Nonpermitted events.* Any outdoor event that is commenced without a permit shall be canceled and all participants with their associated equipment shall be disbursed from the site. ~~It is expected that applicants will act in compliance with this section on his own initiative; however, the town manager, chief of police or their representatives may order cancellations of any nonpermitted event if the event is required to have a permit based on the standards of this section.~~
- (i) *Disclaimer of liability.* In no event shall the issuance of a permit under this section make or cause the town to be deemed a sponsor of the commercial event. Further, the town shall incur no liability for any injury to person or property arising out of any commercial event regulated by this section. Further, as a condition of any permit issued pursuant to this section, the applicant and sponsor shall hold the town harmless and indemnify the town for any liability incurred as the result of a valid judgment in a court of law. It is further provided as a condition of any permit issued hereunder that the applicant shall defend the town against any action filed against it arising out of any commercial event-for which a permit is issued.
- (j) *No permit required.* If a permit is required and obtained pursuant to section 18-10, no additional permitting will be required under this section.

This ordinance amending the Kitty Hawk Town Code shall take effect on the 2nd day of October, 2023. Passed and adopted at a regular meeting held by the Town Council of Kitty Hawk the 2nd day of October, 2023, with 5 in favor and 0 opposed.

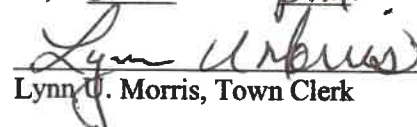

Lynn U. Morris, Town Clerk


D. Craig Garriss, Mayor

APPROVED AS TO FORM:

Casey Varnell, Town Attorney

The undersigned certifies that the foregoing official ordinance designated ORDINANCE AMENDMENT OF THE TOWN CODE OF KITTY HAWK, NORTH CAROLINA was filed in the Kitty Hawk Ordinance Book on the 3rd day of October, 2023, at 2:05 o'clock p.m.


Lynn U. Morris, Town Clerk