

AN ORDINANCE AMENDING THE KITTY HAWK TOWN CODE

WHEREAS, Town Council has found that the intent of the outdoor events and gatherings ordinance was not intended to regulate small temporary markets; and

WHEREAS, occasional outdoor markets, properly regulated will not be detrimental to the Town; 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 42-1 and 42-502(6) Kitty Hawk Town Code be amended as follows:

Sec. 42-1. Definitions

Temporary outdoor market means a temporary outdoor retail operation that may be comprised of multiple vendors and temporary accessory structures in which goods, wares, or merchandise are offered for sale, barter or exchange.

Sec. 42-502(6) Temporary outdoor market

Temporary outdoor markets. A temporary outdoor market permit shall be required prior to the commencement of any temporary outdoor markets.

- a. Temporary outdoor markets not meeting the definition of yard sales, per Sec. 16-2, shall be limited to non-residential zoning districts, and the activities of the temporary outdoor markets must be consistent with the zoning-permitted principal use of the sponsoring commercial establishment. This use shall not include flea markets.
- b. Temporary outdoor markets shall not be permitted on unimproved commercial parcels.
- c. Applications for temporary outdoor markets must be made by the business owner and co-signed by the majority owner of the premises on which the event is to be held, the applicant shall be considered the temporary outdoor market sponsor. It is the responsibility of the sponsor to ensure all conditions of approval are met and complied with throughout the event.
- d. Applications for temporary outdoor markets must demonstrate that the principle use on the parcel will continue to meet all minimum parking requirements during the periods for such sales. One parking space per approved vendor is required in addition to the minimum parking requirements for the principle use. There shall be no impact on interior circulation.
- e. The area of the lot devoted to the temporary outdoor market shall not exceed 30% of the floor area of the principal structure, or sponsoring unit in a multi-tenant structure, whichever is applicable.


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- f. Temporary outdoor markets are limited to two events per twelve month period per sponsoring permanent commercial establishment. Each temporary outdoor market event shall not exceed a period of two consecutive days.
- g. Temporary outdoor markets shall not interfere with potential fire, police or other emergency response needs on site, as determined by the Town.
 - 1. Tents or canopies associated with the market must be secured to resist movement during wind.
 - 2. Drive aisles and parking areas being utilized for temporary outdoor markets shall be closed to vehicular traffic.
- h. Complete applications for a temporary outdoor market must be submitted no less than 15 working days prior to the proposed event, potential rain dates must be identified in the application. The following information shall be included in the application:
 - 1. Name and address of the applicant, proof of ownership or rental
 - 2. Address of the location of the outdoor market
 - 3. A description of the proposed market, including hours of operation, potential noise impacts, parking accommodation, impacts on adjacent property, any associated signs or lighting and provision for temporary utility service, if applicable.
 - 4. Evidence of liability insurance coverage must be provided to the Town
 - 5. Sketch plan of the proposed layout of vendors.
 - 6. 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.
- i. 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.

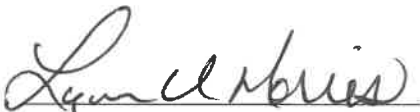
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- j. Any temporary outdoor market that is commenced without a permit shall be canceled and all participants with their associated equipment shall be disbursed from the site.
- k. In no event shall the issuance of a permit under this section make or cause the town to be deemed a sponsor of the temporary outdoor market. Further, the town shall incur no liability for any injury to person or property arising out of any commercial event or gathering 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 or gathering for which a permit is issued.

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.



D. Craig Garriss, Mayor




Lynn U. Morris, Town Clerk

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 2:10 o'clock p.m.



Lynn U. Morris, Town Clerk

