

AN ORDINANCE AMENDING THE KITTY HAWK TOWN CODE

WHEREAS, the Town Council of Kitty Hawk recognizes the need for zoning regulations that are consistent with current enabling legislation adopted by the North Carolina General Assembly; and

WHEREAS, the Town's existing variance standards require a showing that no reasonable use of the property is possible without a variance, a standard that is more restrictive than what is permitted under N.C.G.S. §160D-705; and

WHEREAS, North Carolina General Statutes now provide that an unnecessary hardship may be present even when reasonable use of the property remains, and further allow variances to provide reasonable accommodations as required by federal or state law; and

WHEREAS, revising Section 42-74 to match state law ensures the Town's regulations are lawful, enforceable, and consistent with modern requirements for fair and equitable quasi-judicial decision-making; and

WHEREAS, the Town Council finds that the proposed amendment, which removes outdated provisions, incorporates statutory language, and corrects terminology, is in the public interest and promotes clarity, fairness, and consistency for the Board of Adjustment and the public; and

WHEREAS, the Town Council has determined that the amendment is consistent with the Town's adopted CAMA Land Use Plan and is reasonable and in the public interest because it aligns Town ordinances with current state statutes;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Kitty Hawk, North Carolina, that Chapter 42, Article III, Section 42-74 of the Town Code is hereby amended as follows:

Sec. 42-74.- Variances

(a)When unnecessary hardships would result from carrying out the strict letter of this chapter, the board of adjustment shall vary any of the provisions upon a showing of the following:

(1) Unnecessary hardship would result from the strict application of the ~~ordinance~~ **regulation**. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. **A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.**

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify **the** granting of a variance ~~shall is not be regarded~~ as a self-created hardship.

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- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance **regulation**, such that public safety is secured and substantial justice is achieved.
- (5) ~~The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.~~

This ordinance amending the Kitty Hawk Town Code shall take effect the 3rd day of November, 2025. Passed and adopted at a regular meeting held by the Town Council of Kitty Hawk the 3rd day of November, 2025, with a unanimous approval vote.

D. Craig Davis
Mayor

ATTEST:
Lauren Fox Hunt
Town Clerk



APPROVED AS TO FORM:

[Signature]
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 05 day of November 2025, at 9 o'clock am.

Lauren Fox Hunt
Town Clerk