

**AN ORDINANCE AMENDING THE SIGN ORDINANCE
OF THE TOWN OF DUCK, NORTH CAROLINA**

Ordinance No. 17-04

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Duck (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 156 of the Town’s Code of Ordinances (the “Town Code”);

WHEREAS, pursuant to N.C.G.S. § 160A-174 the Town may also enact and amend ordinances that define, prohibit, regulate or abate acts, omissions or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the Town;

WHEREAS, the Town has long regulated signage within its jurisdiction pursuant to the above-referenced authority in a manner consistent with many other jurisdictions throughout Dare County, the State of North Carolina and the United States;

WHEREAS, recent case law from the United States Supreme Court has placed significant limitations upon and changed the landscape of signage regulation throughout the United States, including within the Town’s jurisdiction; and

WHEREAS, the Town seeks to modify its existing signage regulations to comply with the mandates of the United States Supreme Court in a manner consistent with the Town’s historical signage regulations and in consideration of the Town’s aesthetic, health, safety and welfare concerns; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public’s health, safety, and general welfare for the Town to amend the Town’s Zoning Ordinance and Town Code of Ordinances as stated below.

ARTICLE III. Amendment of Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Duck, North Carolina, that the Town Code shall be amended as follows:

PART I. That Town Code Section 156.002 be amended as follows:

ADULT MOTEL. A hotel, motel or similar commercial establishment that:

(1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(2) Offers a sleeping room for rent for a period of time that is less than 12 hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 12 hours.

READER BOARD.

A permanent sign, affixed either to the wall of a structure or to an existing freestanding sign, which is comprised of a surface to which letters may be attached on a temporary basis. The area of a ***READER BOARD*** sign is to be included in the area of wall-mounted or ground-mounted signage permitted.

SIGN.

A ***SIGN*** shall include all structural members.

SIGN, ANIMATED. Any sign, which uses movement or change of lighting to depict action or to create a special effect or scene.

SIGN AREA.

(1) The entire face of a sign including any nonstructural embellishments, but not including the supporting structure.

(2) In the case of a double-faced sign where the interior angle formed by the faces is 45 degrees or less or where the sign faces are parallel with no more than 24 inches between each sign face, only 1 display face shall be used in calculating the area.

(3) The ***AREA OF SIGNS***, composed in whole or in part of free-standing letters, devices or sculptured matter not mounted on a measurable surface, shall be construed to be the area of the least square, rectangle or circle that will enclose the letters, devices or sculptured matter.

SIGN, ARCADE. Any sign suspended underneath an awning, canopy, marquee, eave, archway or other structure which forms a covered walkway.

SIGN, BUILDING-MOUNTED. Any sign attached to a building, including a wall-mounted sign, projecting sign, canopy sign, porch sign, and window sign, but specifically excluding any roof sign.

SIGN, CANOPY. Any sign which is painted or printed on or attached flat against a canopy or awning.

SIGN, ELECTRONIC MESSAGE BOARD. A sign, or portion of a sign that displays electronically generated text, images, graphics, or video whereby the message is formed using a panel or matrix consisting of light emitting diodes (LED's), fiber optics, light bulbs

or other illumination devices within the display area. **ELECTRONIC MESSAGE BOARD SIGNS** include, but are not limited to, signs also known as Electronic Reader Boards, Electronic Message Center Signs, Tri-Panel Message Systems, and Commercial Electronic-Variable Message Signs (CEVMS).

SIGN FACE. The area of a sign used for visual communication.

SIGN, FLASHING. An illuminated sign of direct or indirect lighting on which the artificial light flashes on and off in regular or irregular sequences.

SIGN, FREESTANDING. A sign supported by 1 or more poles or braces set firmly in the ground or in a foundation and not attached to a building.

SIGN, GOVERNMENT. A sign or notice erected and maintained by the town, county, state or federal government.

SIGN, HANGING. A sign suspended from braces, beams or other supports which may be either freestanding or building-mounted.

SIGN HEIGHT. As applied to a sign, height shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is highest, and the ground.

SIGN, NON-CONFORMING. A lawfully existing sign which becomes non-conforming on the effective date of a new ordinance or amendment thereto because it does not conform fully with all standards and regulations therein.

SIGN, PORCH. A sign that is attached in whole or in part to the fascia of a porch roof.

SIGN, PORTABLE. A sign that is not permanently attached to the ground, a structure or a building and that can be moved from 1 location to another and used for a temporary purpose. This shall include "A"-frame signs, sandwich board signs and signs mounted and displayed on a stationary vehicle.

SIGN, RESIDENTIAL. Any sign located on property within a residential zoning district (RS-1, RS-2, and R-2).

SIGN, RESIDENTIAL IDENTIFICATION. A sign which denotes the name of a residential subdivision, condominium or apartment complex. Such signs are permitted for the purpose of assisting the local government with traffic flow and public safety.

SIGN, REVOLVING/ROTATING. A sign that revolves 360 degrees.

SIGN, ROOF. A sign erected, constructed or maintained above or on the roof of any building.

SIGN, SANDWICH (also called an **A-FRAME SIGN**). A portable sign which is constructed of durable materials, which has 2 flat faces, with or without changeable copy, and is designed to be placed on the ground.

SIGN STRUCTURE. Anything built or constructed for the purpose of supporting a sign.

SIGN, TEMPORARY. A sign constructed of cloth, fabric, plywood or other lightweight material, and designed or intended for a period not to exceed 90 days and which does not constitute a structure subject to the North Carolina State Building Code or Town of Duck ordinances.

SIGN, UNDER-CANOPY. Any sign suspended underneath an awning, canopy, marquee, eave, archway or other structure which forms a covering for a walkway.

SIGN, WALL. A sign painted on or attached parallel to the wall of a building, including any sign attached to a mansard.

SIGN, WINDOW. A sign attached to or applied upon the inside or outside face of a window or transparent door or adjacent thereto (placed in a manner within a building so that it is visible from the exterior of the building through a window and intended to be viewed from the outside), not to include window merchandise displays.

PART II. That Town Code Section 156.130 be amended as follows:

(A) *Purpose.* This subchapter is established to regulate the area, height, location and structural type of signs in the town to promote the health, safety, and general welfare of the community by protecting property values; minimizing visual distractions to motorists; and protecting and enhancing the image, appearance and economic vitality of the town.

(B) *Applicability.* Signs located within the town shall be erected, relocated, refaced or altered only in accordance with the provisions of this chapter and all other applicable laws, ordinances and regulations.

(C) *General provisions.*

(1) *Location.*

(a) All signs are deemed to be accessory to the principal use and shall be located entirely on the same lot as the principal use, except as provided in division (F)(4) below.

(b) Signs and sign structures may not obstruct ingress and egress to any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any room or building as required by law.

(c) Signs shall be set back from the right-of-way as specified herein.

(d) Building-mounted signs shall be flush-mounted against the plane of a building wall and shall not extend beyond the perimeter of any building edge, canopy border or roof line, except as provided for porch signs in division (F)(3)(b)6. below.

(e) Projecting signs shall not project more than 4 feet in a perpendicular fashion from the building face to which they are attached.

(f) Wall signs shall not extend more than twelve inches (12") in depth from the building face to which they are attached.

(g) No permanent, freestanding sign shall be located within a public right-of-way or within 30 feet of the center-line of any public thoroughfare.

(h) Any sign that obstructs corner visibility or visibility at a driveway between a height of 2 feet and 10 feet is prohibited.

(2) *Sign lighting.*

(a) All lighting must be oriented or shielded so that light and glare reflects away from streets and adjacent property.

(b) External sign lighting shall be directed toward signs and shall be shielded in a manner so as to illuminate the sign face only. Signs with external lighting shall be lit from the top down to avoid the glare and sky illumination characteristics of spot lighting or up lighting. Internally lit or back lit signs must be appropriately shielded to keep glare and light from rising above the top of the sign.

(c) No sign regulated by this chapter may utilize a revolving beacon light, flashing, revolving, changing and/or rotating light.

(d) All signs in which electrical wiring and connections are to be used shall require a permit and shall comply with the North Carolina Electrical Code and be approved by the Building Inspector.

(3) *Sign structures.* Sign structures shall not be illustrative in nature. Any portion of a sign structure which is intended to inform, persuade, advertise or visually attract attention shall be considered part of the sign.

(4) *Anchoring and construction specification.*

(a) All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations, concrete footings or concrete embedment.

(b) All signs and sign structures shall be constructed and designed according to generally accepted engineering practices, to withstand wind pressures and load distribution as specified in the North Carolina State Building Code, as adopted and amended by the town.

(c) When a sign or outdoor advertising structure becomes structurally unsafe, the Building Inspector shall give written notice to the owner thereof that the same shall be made safe or removed within 10 days of receipt of the notice.

(5) *Maintenance and removal.* Should any sign become in danger of falling or is deemed unsafe by the Building Inspector, the owner or the person or firm maintaining the sign, shall upon written notice from the Building Inspector, secure or remove the sign within 10 business days. In the case of immediate danger, the sign shall be secured or removed as specified by the Building Inspector. If the sign is not removed or secured, the Inspector or his or her designated agent may initiate legal procedures to obtain the necessary court orders to remove the signs at the expense of the owner or lessee thereof.

(6) *Abandoned signs.* Any freestanding sign relating to any business or other use shall be removed by the owner of the sign or property owner within 12 months after the business

or activity has been vacated or terminated. All other signs relating to any business or other use shall be removed by the owner of the sign or property owner within 90 days after the business or activity has been vacated or terminated. If the sign has not been removed after the removal time has expired and after proper written notification has been issued, the town may initiate legal procedures to remove the signs at the expense of the owner or lessee thereof.

(7) *Sign measurements.* For the purpose of this chapter, the area, in square feet, of any sign shall be computed by the smallest square, triangle, rectangle, circle or combination thereof which will encompass the entire sign. In computing the sign area in square feet, standard mathematical formulae for known or common shapes will be used. In the case of irregular shapes, straight lines drawn closest to the extremities of the shape will be used. Where a sign has 2 or more faces, the area of all faces shall be included in determining the area of the sign, except that where 2 faces are placed back-to-back and are at no point more than 2 feet from one another. The area of the sign shall be taken as the area of the larger face if the 2 faces are of unequal area; if the areas of the 2 faces are equal, then the area of 1 of the faces shall be taken as the area of the sign.

(D) *Exemptions.* The following signs are exempt from the requirements of this division except for applicable provisions contained in division (C) above:

- (1) Government signs;
- (2) Product dispensers and point-of-purchase displays;
- (3) Indoor signs other than window signs;
- (4) Signs which are less than 1 square foot in area; and
- (5) Signs which are not visible from road, rights-of-way, beach, and waters of the Atlantic Ocean and Currituck Sound, are exempt from the requirements of this division except for the applicable provisions contained in divisions (C)(2), (C)(4), C(5), (C)(6), and (E), but not including the provisions in (E)(2).

(6) Signs and notices posted along privately maintained roads or commonly held properties by a formally established property owners association for the purpose of traffic direction, public notice or public safety.

(E) *Prohibited signs.* In all zoning districts the erection, construction, location or the use of any sign described below is prohibited as follows, unless otherwise permitted in this chapter. Prohibited signs, if deemed to create a public safety hazard by the Zoning Administrator, may be removed immediately by the town; otherwise, prohibited signs shall be removed within 10 business days following written notification from the town:

- (1) No sign shall be permitted on or protrude into a public or private right-of-way, street or vehicular passageway;
- (2) No sign shall be posted on any telegraph, telephone, electric or other utility pole or structure or any tree;
- (3) No sign shall be permitted whereby its location, nature or type constitutes a hazard to the safe and efficient operation of vehicles or passage of pedestrians and cyclists upon any public or private right-of-way, street or passageway. No sign shall be permitted that obstructs the line of sight of motorists or pedestrians at intersections, driveways, or along any public or private right-of-way, street or passageway. No sign shall be permitted that

obstructs or resembles traffic signs or signals, or would tend to be confused with a flashing light of an emergency vehicle;

(4) No sign shall be permitted that contains or consists of banners, posters, ribbons, balloons, streamers, pennants, spinning parts or other similarly moving devices or ornamentation, except as specifically provided herein;

(5) No sign shall be permitted which contains or utilizes revolving or rotating beams of light. No flashing sign shall be erected. Also prohibited are portable spotlights or beacons used as advertising to draw attention to any use;

(6) No signs or lettering shall be displayed on a vehicle or trailer that is parked or located within 80 feet of the centerline of N.C. Highway 12 and on the same property as the business for which the sign is advertising, unless there is no other feasible location to park the vehicle on the property;

(7) No sign shall be located in any public or private waterbody, canal, ditch or other waterway, including the Atlantic Ocean and the surrounding waters of the town. This prohibition does not apply to government signs;

(8) Temporary, portable signs including sandwich board, A-frame or wind driven signs such as tethered balloons or other inflatable objects, except as otherwise provided in this chapter. A-frame or sandwich board signage may be permitted on decks and landings of commercial buildings, except as otherwise prohibited herein, but may not be ground or roof mounted;

(9) All outdoor advertising structures (billboards or off-premises signage) are prohibited. Any sign or outdoor advertising structure that violates any provision of any law of the state relative to outdoor advertising is prohibited;

(10) Roof signs that extend above the peak of the roof on which they are attached or whose area exceeds individually or in aggregate 25% of the roof area on which they are attached or more than 10% of the total roof area of an individual building. Roof signs shall not be attached to flat roofs. Roof signs shall in no case be taller than 10 feet from the lowest point of attachment to the roof. The height of a roof sign measured from the ground to the top of the sign cannot exceed the maximum height limit for the zoning district in which the sign is permitted;

(11) Any form of signage on a telecommunications tower;

(12) Any form of signage on a wind energy facility or solar energy system;

(13) Signs supported in whole or in part by water, air or gas in the Ocean and Sound Overlay District;

(14) Signs directed toward any public trust area as defined by CAMA;

(15) Signs related to a minor home occupation;

(16) Signs imitating or closely resembling official traffic or government signs or signals, excluding actual government signs;

(17) Electronic message board signs as defined in Section 156.002; and

(18) Any other sign not expressly permitted by this division.

(F) *Administration and permits.*

(1) *Sign permit and building permit.* All signs greater than 3 square feet except window signs permitted by this chapter and exempt signs require a sign permit issued by the Zoning Administrator. No sign or outdoor advertising structure shall be erected or attached to, suspended from or supported on a building or structure, nor shall any existing

sign or outdoor advertising structure be structurally altered, remodeled or relocated, until a sign permit has been issued by the Zoning Administrator. The Building Inspector shall issue a building permit for the erection or construction only for a sign which meets the requirements of this chapter and the Building Code of the State of North Carolina. Applications for sign permit to construct, or alter the structure of a sign shall be submitted to the town Zoning Administrator and accompanied by a plan showing the following:

- (a) Area of the sign;
- (b) Size, character, general layout and designs of signs;
- (c) The method and type of illumination, if any, and construction specifications if applicable;
- (d) The location proposed for the signs in relation to property lines, zoning district boundaries, right-of-way lines, public waterways and existing signs;
- (e) A listing of all building and ground-mounted temporary and permanent signage on the premises;
- (f) Additional information that will enable the Zoning Administrator to determine if the sign is to be erected in conformance with the requirements of this chapter; and
- (g) Payment of fee to obtain sign permit and building permit (if one is required).

(2) *Exemption from permits.* The following types of signs are exempted from the sign permit requirements, but must comply with all other requirements of this chapter:

(a) Flags and other wind-driven devices, as defined in Section 156.002 above, provided the standards of division (F)(4)(a) below are met;

(b) Any property for which a special event permit has been approved may install temporary signs or banners provided such signs do not exceed 48 square feet in sign area and do not encroach on any public or private right-of-way. These temporary signs or banners may be installed 10 business days before the event or activity and must be removed within 5 business days following the event or activity;

(c) Signs prohibiting persons from trespassing, hunting, fishing or swimming and warning of dangerous animals, not to exceed 2 square feet in area for each sign;

(d) Temporary window signage in conformance with the window signage requirements in division (F)(3)(b)4 below; and

(e) *Residential signs.* The total number of temporary residential signs shall not exceed three on any individual property. The following residential signs shall not require a permit.

1. Temporary Banners, flags and balloons, limited to 3 consecutive days' duration.

2. One non-illuminated sign per street frontage, not to exceed 6 square feet in sign area. Such signs must be mounted within a substantial wood or metal frame (for example, typical signs used in the real estate industry for advertising sales).

3. Temporary, non-illuminated, lightweight signs, not to exceed 2 square feet in sign area (similar to yard sale or open house signs).

4. Non-illuminated signs mounted to the wall of a residence, not to exceed a total of 14 square feet in sign area.

5. Temporary signs less than 8 square feet in area, provided that these signs shall be limited to 90 days duration and do not encroach on any public or private right-of-way.

(f) Any property on which repair or construction work is actively occurring may install one additional, non-illuminated sign for each street frontage, not to exceed 12 square feet in sign area for residential signs or 24 square feet for commercial signs. The right to display this additional sign ceases when the work is completed.

(3) *Permanent signs that require a permit.*

(a) *Residential signs.* The following residential signs shall require a permit.

1. *Residential identification signs.* Maximum of 2 residential identification signs per entrance, not to exceed 32 square feet each in sign area.
2. *Home occupation signs.* Major home occupations approved per the standards of Section 156.136 are permitted to install a single, nonilluminated sign not exceeding one square foot in area.

(b) *Commercial signs.* For each lot, tract or parcel in a commercial zoning district, 2 square feet of business sign area may be allowed for each linear foot of building frontage with a bona fide customer entrance. The sign area may be in a single sign or in a combination of wall-mounted, projecting, under-canopy, roof, porch or permanent window signs, subject to the following additional limitations.

1. *Freestanding signs.* One freestanding sign per lot not to exceed 64 square feet in area and not to exceed 12 feet in height shall be permitted. A freestanding sign allowance is in addition to the commercial sign allowance described in division (3)(b) above.

2. *Wall-mounted signs.* Signs placed against the exterior walls of buildings shall not exceed in area 20% of the exposed finished wall surface area on which they are attached. For multi-unit structures, the wall signage standards may be divided among the businesses per agreement of the businesses and property owner. Wall-mounted signs shall be flush-mounted against the plane of a building wall and shall not extend beyond the perimeter of any building edge, canopy border or roof line. Wall signs may be mounted to porch or deck railings; however, in no instance shall there be more than 10 square feet of signage for each contiguous 12 linear feet section of railing. In cases where there is less than 12 contiguous linear feet of railing present, signage shall be limited to 20% of the area of the railing section to which it is attached.

3. *Under-canopy signs.* One under-canopy sign per occupancy, not to exceed 4 square feet in sign area.

4. *Permanent window signs.* Permanent (permitted) and temporary (exempt) window signs may be displayed on or adjacent to the interior windows of business establishments provided that all window signs in aggregate shall compose no more than 25% of the aggregate area of windows. The total area of all window signs shall not exceed 50% of the maximum permitted building or wall-mounted sign area for that business.

5. *Roof signs.* Roof signs shall not exceed individually or in aggregate 25% of the roof area on which they are attached or more than 10% of the total roof area of an individual building. Roof signs shall not extend above the peak of the roof on which they are attached. Roof signs shall not be attached to flat roofs. Roof signs shall in no case be taller than 10 feet from the lowest point of attachment to the roof. The height of a roof sign measured from the ground to the top of the sign cannot exceed the maximum height limit for the zoning district in which the sign is permitted.

6. *Porch signs.* One porch sign per occupancy, not to exceed 24 inches in height. Porch signs may extend above the edge of the fascia of the porch roof only and must be designed so that the width of the porch sign is at least 4 times its height but no greater than 5 times its height.

7. *Special regulations and allowances for commercial signs.*

a. Where an occupancy is on a corner or has more than 1 street frontage, 1 additional freestanding sign and wall signs are allowed on the additional frontage, but the total signage permitted is subject to the limitations of § 156.24(F)(3)(b);

b. All awning, marquee and under-canopy signs shall have a minimum clearance of 80 inches over any pedestrian use area;

c. Awning signs shall be considered wall signs and subject to the same standards;

d. Notwithstanding the limit on sign area based on linear frontage of the building as described in division (3)(b) above, any independent retail business may have a minimum of 30 square feet of sign area. Further, in a group development or multi-tenant building, signage may be distributed among the tenants according to the aggregate building frontage and agreement for sign allowance distribution between the tenants and the property owner; and

e. For group development projects, additional signs may be installed within the lot in proximity to major internal pedestrian and vehicular travelways. No such sign shall exceed 20 square feet in area and 8 feet in height for group development projects less than 5 acres in area or 30 square feet in area and 8 feet in height for group development projects 5 acres or more in area, nor be located closer than 50 feet to any street. These signs shall not be placed within 5 feet of the curb line of a service drive or travel lane. No more than one such sign may be permitted for each two (2) buildings in a group development project. Freestanding signs may be permitted for group development projects in addition to the single ground-mounted sign permitted pursuant to division (F)(3)(b)1. The allowance for wall-mounted or freestanding signs is in addition to the business sign allowance in division (F)(3)(b) above.

(4) *Temporary signs.* The following non-illuminated temporary signs are allowed provided that the standards contained herein are met and that permits, if required, have been obtained.

(a) *Flags and other wind devices.* Ground-mounted and building-mounted flagpoles are permitted as commercial signs, subject to the following standards: Flagpoles shall not exceed the maximum building height limit of the applicable zoning district in which they are located. Roof-mounted flagpoles are permitted only if the top of the pole is no higher than the building height limit for the district in which it is located and provided all other limitations of this chapter are met. No premises may display more than 3 like signs, each flag and pole shall conform to the height and setback restrictions of the zoning district in which they are located, and no like flag shall exceed 24 square feet in area. In addition, for any commercial use on a parcel, other flags may be permitted according to the following:

1. A maximum of 1 flag pole with no more than 2 flags per pole shall be permitted for each 25 linear feet of road frontage. A nautical flagpole with a yardarm or gaff shall be permitted to display no more than 5 flags per pole. Permits shall not be required for flags and flag poles; however, the standards herein must be met;

2. Wind-driven devices such as windsocks, decorative banners and similar devices (not including balloons and pennants) may be mounted to buildings, decks and porches provided they are not placed above the eave line of the roof on the building. Permits shall not be required for these devices; however, the standards herein must be met;

3. Sails, sailboards, kites or other similar apparatus mounted on the ground affixed to or in a similar fashion as flagpoles shall be considered as flags and subject to these restrictions;

4. All flagpoles shall be located outside of any right-of-way or easement area;

5. Flagpoles shall be located a minimum of 10 feet from all property lines except that this setback shall not apply to property lines abutting the sound; and

6. All flags and flag poles shall be maintained in good repair. Flags and flag poles that are worn, torn, faded, tattered or in need of repair shall be removed and repaired or replaced as soon as they reach that condition.

(b) Building-mounted banners as commercial signs provided that banners do not exceed 32 square feet in area, are displayed for no more than 10 days at a time no more than 6 times per year with a minimum of 14 days between banner display per business during the tourist season from Memorial Day to Labor Day. These banners may be consecutive displays during the off-season, not to exceed the maximum allowable days per year. These banners may be mounted on the building or on deck railing or similar building features, or may be ground-mounted with posts or affixed to a permitted ground-mounted sign, subject to the location requirements of Section 156.124(C)(1), provided that a permit has been approved by the Zoning Administrator and applicable fees and deposits as established by the Town Council to guarantee removal of those signs have been submitted.

(5) *Nonconforming signs.*

(a) *Loss of non-conforming status.* A non-conforming sign may lose its non-conforming designation if:

1. The sign is relocated or replaced; or

2. The structure of the sign is altered in any way except towards compliance with this chapter. This does not refer to change of copy or normal maintenance but shall include sign re-facing.

(b) *Maintenance and repair of non-conforming signs.* Non-conforming signs are subject to all requirements of this chapter regarding safety, maintenance and repair. However, if the sign suffers damage or deterioration equal to or in excess of 50% of the replacement value of the sign, it must be removed or brought into conformance with this chapter.

(c) *Other standards for non-conforming signs.*

1. *No replacement.* Another non-conforming sign shall not replace a non-conforming sign.

2. *Repair.* Minor repairs and maintenance of non-conforming signs such as repainting the existing graphics, electrical repairs and neon tubing repairs shall be permitted.

3. *Alteration, relocation or replacement.* Nonconforming signs, which are structurally altered, relocated or replaced, shall comply in all respects with the provisions of this chapter, except as specifically excepted herein.

4. *Legally established non-conforming uses.* New signs related to legally established non-conforming uses may be erected provided they comply with the sign requirements of the district in which the use is located.

(6) *Signs to be removed by Zoning Administrator.*

(a) Signs unlawfully placed in any street right-of-way or on any public property, including signs affixed to street signs and posts and traffic signs and posts, on any public

utility pole, or within 30 feet of the centerline of any public thoroughfare may be removed by the Zoning Administrator or his or her designee without notice.

(b) A sign so removed will be held for a period not to exceed 10 days and retrieval of the sign will incur a fee as prescribed in the adopted schedule of fees. Removal and disposal of illegally placed signs or posting of violation notices thereon shall not preclude the prosecution of any person for illegally placing those signs.

(7) *Sign special exceptions.* Town Council may, by special exception, modify the requirements contained in this section in accordance with the following provisions:

(a) Special exceptions shall be granted only in accordance with the procedures and limitations established for conditional use permits in Section 156.145 below.

(b) Special exceptions shall be granted only if:

1. The applicant has clearly demonstrated that requirements contained in this division will present a unique burden due to unusual topography, vegetation, building design or orientation, or lot shape; and

2. The Town Council has determined that the granting of special exceptions will not be inconsistent with the CAMA land use plan or the purpose of the sign regulations.

PART III. That the following amendments be made elsewhere in the Town Code:

Subsection 91.36(J) be eliminated in its entirety.

Renumber all subsequent subsections of Section 91.36 accordingly.

Subsection 155.03(F) be amended as follows:

(F) *Street/road names and signs.* Streets and roads shall be named and those names shall be indicated on signs designed, constructed and placed in accordance with Section 156.130 of the Town Code and existing policy of the Town of Duck.

Subsection 156.029(C)(2) be amended as follows:

(2) Public clubs, including boat launching areas, golf courses, tennis courts, picnic areas, beach clubs and concessions integral thereto; provided, that there is no open commercial activity;

Subsection 156.030(C)(3) be amended as follows:

(3) Private clubs, including boat launching areas, tennis courts, community centers, libraries, picnic areas, beach clubs and concessions integral to them;

Subsection 156.030(C)(7)(g) be amended as follows:

(g) Signage: a single sign may be permitted consistent with the standards outlined in Section 156.130; and

Subsection 156.031(C)(3) be amended as follows:

(3) Private clubs, including boat launching areas, tennis courts, community centers, libraries, picnic areas, beach clubs and concessions integral to them;

Subsection 156.032(C)(4) be amended as follows:

(4) Private clubs, including boat launching areas, golf courses, tennis courts, community centers, libraries, picnic areas, beach clubs and concessions integral thereto; provided, that there is no open commercial activity;

Subsection 156.034(B)(10)(h) be amended as follows:

(h) *Signage.* Establishments conducting electronic gaming operations shall prominently post the rules of the electronic gaming operations on the interior of the establishment in a manner that is clearly visible to all patrons and customers. All exterior signs for electronic gaming operations shall meet the standards outlined in Section 156.130.

Subsections 156.037(D)(1), (2), and (3) be eliminated in their entirety:

Renumber all subsequent subsections of 156.037(D) accordingly.

Subsection 156.058(F)(7) be amended as follows:

(7) Signage within a wireless facility is only permitted consistent with the standards outlined in Section 156.130.

Subsection 156.061(D)(8)(c) be eliminated in its entirety.

Subsection 156.117(H) be amended as follows:

(H) *Sign detail required.* Whenever a new sign or change in existing sign would require the issuance of a permit, detailed designs showing all relevant information required to determine compliance with the sign regulations outlined in Section 156.130 shall be required as part of a complete application.

Subsection 156.133(F)(5) be eliminated in its entirety.

Subsection 156.136(A)(4) be amended as follows:

(4) There shall be no display of goods, tools, equipment, commercial vehicles or advertising other than a single sign subject to the standards outlined in Section 156.130; and

Subsection 156.138(C)(4)(c) be amended as follows:

(c) *Signage and lighting.* Signage on a wind energy facility is only permitted consistent with the standards outlined in Section 156.130. No lighting on the wind energy facility shall be permitted unless required by FAA regulations.

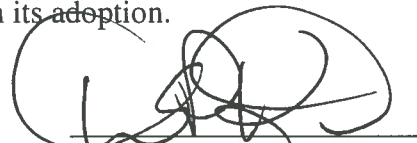
ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Duck, North Carolina which shall remain in full force and effect.

ARTICLE VI. This ordinance shall be effective upon its adoption.


Don Kingston, Mayor

ATTEST:


Lori Ackerman, Town Clerk

Date adopted: June 7, 2017

Motion to adopt by: monica Thibodeau

Vote: 5 AYES 0 NAYS

