

1       **AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS**  
2       **AMENDING THE CURRITUCK COUNTY CODE OF ORDINANCES TO REGULATE**  
3       **OUTDOOR TOUR OPERATORS**

4  
5       WHEREAS, pursuant to N.C. Gen. Stat. §153A-121 a county may by ordinance define,  
6 regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or  
7 welfare of its citizens and the peace and dignity of the county; and

8       WHEREAS, pursuant to N.C. Gen. Stat. §153A-134 a county may by ordinance regulate  
9 and license occupations, businesses, trades, and professions; and

10       WHEREAS, pursuant to Section 1 of Chapter 875 of the 1985 Session Laws, as amended  
11 by Session Law 1998-64 and Session Law 2001-33 Currituck County may by ordinance regulate,  
12 restrict, and prohibit the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any  
13 other form of power-driven vehicle specified by the Board of Commissioners on the foreshore,  
14 beach strand, and the barrier dune system; and

15       WHEREAS, due to increasing motor vehicle traffic and pedestrian use of the county's  
16 beach and roads of northern beach communities and the interest in preservation and protection of  
17 the Corolla Wild Horses and habitat it has become necessary to regulate outdoor tour operators  
18 in a manner that will protect the viability of that industry, the natural resources upon which such  
19 industry depends and to protect the livability and attractiveness of the county's northern beach.

20       NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the  
21 County of Currituck, North Carolina as follows:

22       PART I. The Code of Ordinances, Currituck County, North Carolina is amended by adding to  
23 Chapter 8 Article IV. Outdoor Tour Operators to read as follows:

24                       **ARTICLE IV. OUTDOOR TOUR OPERATORS**

25       **Sec. 8-86. Purpose.**

26       It is the purpose and intent of this article to allow outdoor tour operators but to regulate  
27 outdoor tour operators in a manner that will protect and enhance the public's use of its beach,  
28 protect the county's natural resources and preserve the livability and attractiveness of northern  
29 Currituck Outer Banks communities.

30       **Sec. 8-87. Definitions.**

31       *Designated area* shall mean that area of the county on the Outer Banks from the terminus  
32 of the paved portion of N.C. Highway 12 to the Virginia state line

1            *Outdoor tour operator* shall mean a company or individual that arranges travel tours  
2 associated with outdoor recreation including, but not limited to, guided or independent horse,  
3 bicycle, segway, aviation, boat or vehicle tours. For the purposes of this definition, the term  
4 “vehicle” includes any self-propelled device or structure used for transporting persons.

5            *Outdoor tour vehicle* shall mean a vehicle engaged in the business of carrying passengers  
6 for hire or offering to carry passengers for hire, when the primary purpose for riding in such  
7 vehicle is not transportation but touring and sight-seeing.

8            **Sec. 8-87. License required.**

9            (a) It shall be unlawful for any person to engage in business as an outdoor tour operator  
10 or to operate outdoor tour vehicles in the designated area without a license issued pursuant to this  
11 article. The license shall be effective only for the calendar year stated in the license, unless  
12 suspended or revoked sooner as provided for by ordinance and may not be transferred.

13            (b) No more than eight (8) licenses to engage in business as an outdoor tour operator or  
14 to operate outdoor tour vehicles in the designated area shall be issued at any one time.

15            (c) Each license may allow an outdoor tour operator to operate up to four tour service  
16 vehicles at any given point in time and only on approved routes.

17            **Sec. 8-88. Application; inspection**

18            (a) *Application.* Application for a license issued hereunder shall be notarized and made  
19 upon forms prepared and made available by the county manager or manager’s designee and shall  
20 contain:

- 21            (1)     The name and address of the owner, and the event the owner is a corporation or  
22                          partnership, a copy of the articles of incorporation or organizational documents;
- 23            (2)     Factory authorized material setting forth the characteristics of the vehicle  
24                          including its dimensions, weight, passenger capacity, and manner of propulsion;
- 25            (3)     Color photographs not less than eight (8) inches by ten (10) inches of all four (4)  
26                          sides of the vehicle or, in the discretion of the county manager or designee,  
27                          sketches of a similar make and model, and sample of the color proposed for use  
28                          on the vehicle;
- 29
- 30            (4)     The make, model, passenger capacity and vehicle identification  
31                          number of each vehicle including vehicles held in reserve;
- 32
- 33            (5)     Adequate proof of liability insurance coverage;
- 34            (6)     A current state department of transportation license tag;

1 (7) Address of fixed headquarters within the county for the operation of the outdoor  
2 tour operator’s business; and

3 (8) A fee as set from time to time by the board of commissioners.

4 (9) A copy of any permit required by the Currituck County Unified Development  
5 Ordinance.

6 (b) *Investigation of applicant.* Within five business days after receipt of each  
7 application, the county’s manager or manager’s designee shall cause an investigation to be made  
8 of the applicant and applicant’s proposed operation. Such investigation shall be made for the  
9 purpose of verifying the information in the application and ensuring compliance with the  
10 provisions of this article.

11 (c) *Issuance.* The county’s manager or manager’s designee shall issue an outdoor tour  
12 operator license when the county’s manager or manager’s designee finds that the applicant meets  
13 the requirements of this article. Renewal of the license shall be required by January 31 of each  
14 year.

15 **Sec. 8-89. Fixed place of business required.**

16 Each outdoor tour operator, as a condition for holding a license under the provisions of  
17 this article, shall establish and maintain a fixed headquarters on private property within the  
18 county for the operation of the outdoor tour operator’s business. The headquarters shall conform  
19 to the ordinances of the county and shall provide adequate off-street parking space for all  
20 outdoor tour vehicles not in service. The outdoor tour operator’s headquarters shall not be  
21 moved except by the approved transfer of the outdoor tour operator’s license to another location.

22 **Sec. 8-90. Insurance for the benefit of passengers.**

23 Any outdoor tour operator company desiring a license under this article shall give and  
24 maintain a policy of liability insurance from an insurance company authorized to do business in  
25 the State of North Carolina for each outdoor tour vehicle in use as an outdoor tour operation  
26 vehicle with minimum coverage as shall be required by state law for bodily injuries and property  
27 damage resulting from an accident. Such policies of insurance shall be filed with the county and  
28 shall specifically provide that such policy shall not be canceled without notice to the county.

29 **Sec. 8-91. Identification and marking generally.**

30 (a) Every outdoor tour vehicle shall have a sign in plain view on each side of the vehicle,  
31 legible at a distance of 50 feet in letters not less than two inches high, containing the full name  
32 of the outdoor tour operator company operating the vehicle.

1 (b) There shall be on each side and on the rear of each outdoor tour vehicle a number at  
2 least six inches high, such number to be separate and distinct number from that on any other  
3 outdoor tour operator vehicle in the county. The numbers must be permanently affixed to the  
4 vehicle. The number shall be assigned to the outdoor tour vehicle and the owner thereof by the  
5 county manager or manager's designee and shall not be altered or changed without consent of  
6 the county manager or manager's designee.

7 **Sec. 8-92. Tour guide required.**

8 All tours by an outdoor tour operator or on outdoor tour vehicles shall be conducted by  
9 guide who is an employee of the outdoor tour operator. No outdoor tour shall be comprised of  
10 more than four (4) outdoor tour vehicles including the outdoor tour vehicle operated by the  
11 guide.

12 **Sec. 8-93. Safe mechanical condition of outdoor tour vehicles.**

13 Every outdoor tour vehicle operated with the county shall be maintained in a safe  
14 mechanical condition, with all safety equipment remaining intact and operative at all times with  
15 the outdoor tour vehicle is in service.

16 **Sec. 8-94. Cleanliness of outdoor tour vehicles.**

17 Each outdoor tour vehicle operated under this article shall be kept painted and in a clean  
18 and sanitary condition, free of litter and debris, and at all times suitable for transportation of  
19 passengers.

20 **Sec. 8-95. State license tag for outdoor tour operator required.**

21 Prior to the use and operation of any vehicle as an outdoor tour vehicle under the  
22 provisions of this article, the owner of the vehicle shall secure and display on the vehicle a  
23 current North Carolina license registration tag.

24 **Sec. 8-96. Authority for removal of outdoor tour vehicles from operation in county.**

25 The county manager or manager's designee shall have the authority to remove from  
26 operation in the county any vehicle used as an outdoor tour vehicle which is in violation of this  
27 article and to prohibit operation of the outdoor tour vehicle until all deficiencies have been  
28 corrected.

29 **Sec. 8-97. Traffic regulations.**

30 (a) Outdoor tour vehicles shall operate within the county in accordance with the rules of  
31 the road as provided in the laws of the state and ordinances of the county.

1 (b) Outdoor tour vehicles shall be restricted to operation on the route or routes approved  
2 by the Board of Commissioners and on file with the Clerk to the Board of Commissioners. The  
3 Board of Commissioners may approve one route, or may approve various routes based on, but  
4 not limited to, the type, size, and/or passenger loads of outdoor tour operator vehicles, the  
5 condition of streets and roads and number of single-family residential dwellings located along a  
6 street or road.

7 (c) It shall be unlawful to operate an outdoor tour operator vehicle in any manner which  
8 places the occupants of the outdoor tour operator vehicle in immediate harm, or in any manner  
9 which impedes standard traffic flow on streets, roads or public vehicular areas. Impeding  
10 standard traffic flow on streets, roads or public vehicular areas shall include moving slower than  
11 the standard traffic flow or stopping within or along streets, roads or public vehicular areas for  
12 other than slowing, yielding or stopping as may be required by motor vehicle law.

13 (d) It shall be unlawful to operate an outdoor tour operator vehicle before sunrise or after  
14 sunset west of the dune line extending from the terminus of North Carolina Highway 12 to the  
15 Virginia State line.

16 **Sec. 8-98. Penalties for violation; issuance of citations; suspension.**

17 (a) Failure to comply with this article or any of the laws, ordinances and regulations of  
18 the county may result in revocation or nonrenewal of a license and shall be punishable as  
19 provided in Section 1-8 of this Code.

20 (b) Any citation issued for violation of this article shall be issued to the license holder at  
21 the time of the violation.

22 (c) Any outdoor tour operator whose outdoor tour vehicles receive multiple sustained  
23 citations for violating this article in a thirty day period shall be suspended from operating in the  
24 designated area in accordance with the following schedule:

<u>Number of citations issued</u>	<u>Days of Suspension</u>
<u>In Thirty Day Period</u>	
28 2 or more	1 day
29 5 or more	3 days
30 10 or more	5 days

31 Outdoor tour operators suspended under this section must pay all outstanding civil  
32 citations in full before license privileges will be reinstated.

1 PART II. **Conflicts.** All ordinances or parts of ordinances in conflict with this ordinance are  
2 hereby repealed.

3 PART III. **Severability.** In the event one or more of the provisions contained in this ordinance  
4 shall for any reason be held by a court to be invalid, illegal or unenforceable in any respect, such  
5 invalidity, illegality or unenforceability shall not affect the remaining provisions of this  
6 ordinance, and this ordinance shall be construed as if such invalid, illegal or unenforceable  
7 provision or provisions had never been contained herein.

8 PART III. This ordinance is effective on \_\_\_\_\_, 2011

9

10 ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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\_\_\_\_\_  
O. Vance Aydlett, Jr., Chairman

14 ATTEST:

15

16 \_\_\_\_\_  
Gwen H. Keene, Clerk to the Board

17

18

19 APPROVED AS TO FORM:

20

21 \_\_\_\_\_  
Donald I. McRee, Jr., County Attorney

22

23 Date adopted: \_\_\_\_\_

24

25 Motion to adopt by Commissioner \_\_\_\_\_

26 Second by Commissioner \_\_\_\_\_

27 Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS

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