

1 **AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS**
2 **AMENDING ARTICLE II, DIVISION 7, CHAPTER 10 OF THE CURRITUCK**
3 **COUNTY CODE OF ORDINANCES TO REGULATE EXCESSIVE AND UNSAFE**
4 **DIGGING OR PILING OF SAND ON THE COUNTY'S OCEAN BEACH**

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-145.3 a county may, by ordinance,
9 define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches
10 and prevent or abate any unreasonable restriction of the public's right to use the State's ocean
11 beaches; may regulate, restrict, or prohibit the placement, maintenance, location or use of
12 equipment, personal property, or debris upon the State's ocean beaches; and may otherwise
13 enforce any ordinance adopted pursuant to this section or any other of provision of law upon the
14 State's ocean beaches located within the county's jurisdictional boundaries; and

15 WHEREAS, the Board of Commissioners for the County of Currituck finds that
16 excessive piling of sand or digging of holes in the sand of the county's ocean beaches affects the
17 health, safety and welfare of the county's citizens and visitors by: (i) creating hazards for those
18 traveling the ocean beaches during times of reduced visibility; (ii) unreasonably restricting the
19 ability of emergency, lifesaving, public service and other motor vehicles to travel the ocean
20 beach; (iii) creating hazards for endangered and protected species such as sea turtles which use
21 the ocean beach at night; and (iv) creating the possibility of collapse of sand upon users of the
22 ocean beach, particularly children; and

23 WHEREAS, the Board of Commissioners for the County of Currituck further finds that
24 in accordance with the findings above it is in the interest of the public's health, safety, morals
25 and general welfare for the county to amend the Code of Ordinances, Currituck County, North
26 Carolina as set forth in this ordinance.

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

29 PART I. Article II, Division 7, Chapter 10 of The Code of Ordinances, Currituck County, North
30 Carolina is amended by adding a new Section 10-130 to read as follows:

31 **Sec. 10-130. Excessive and unsafe digging or piling of sand on the ocean beach prohibited.**

32 (a) It shall be prohibited for any person to alter the ocean beach by digging or mounding of
33 sand that:

34 (1) Substantially or permanently alters the contour or shape of the ocean beach or any
35 sand dune;

36 (2) Remains unattended at night for any period of time or during the day for more
37 than one (1) hour without restoring the beach to its original condition;

1 (3) Unreasonably restricts, prevents or disrupts the passage of public works, emergency
2 or ocean rescue vehicles, or the public; or

3 (4) Creates a hazard for those traveling the ocean beach during times of reduced
4 visibility or otherwise cannot reasonably be seen and recognized as a hazard by users of
5 the ocean beach;

6 (5) Creates hazards for endangered and protected species such as sea turtles which use
7 the beach at night;

8 (6) Creates the possibility of collapse of the sand upon users of the ocean beach,
9 particularly children; or

10 (7) Otherwise creates an unreasonably dangerous condition for the users of the ocean
11 beach.

12 (b) Exceptions. The county manager may grant exceptions to this section for limited duration
13 special events or other reasons in the general public interest upon presentation of a written
14 request outlining the reasons for the exception and providing a plan for addressing safety issues
15 associated with the request. This section shall not be applicable to development, beach
16 restoration or nourishment, construction or similar activities occurring upon the ocean beach
17 pursuant to and in compliance with all necessary permits issued by the local, state and/or federal
18 agencies having jurisdiction over the work.

19 PART II. Severability. All ordinances or parts of ordinances in conflict with this ordinance are
20 hereby repealed. Should a court of competent jurisdiction declare this ordinance or any part of
21 this ordinance to be invalid, such decision shall not affect the remaining provisions of this
22 ordinance or the Code of Ordinances of the County of Currituck, North Carolina.

23 PART III. This ordinance is effective upon adoption.

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25 ADOPTED this 16th day of October, 2017.

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28 _____
29 Bobby Hanig, Chairman

30 ATTEST:

31 _____
32 Leeann Walton, Clerk to the Board

33
34
35 APPROVED AS TO FORM:

36 _____
37 Donald I. McRee, Jr., County Attorney

38
39 Date adopted: _____
40

1 Motion to adopt by Commissioner _____

2 Second by Commissioner _____

3 Vote: _____ AYES _____ NAYS