



Nice Matters!

**Emerald Isle  
Planning and Inspections**  
7500 Emerald Drive  
Emerald Isle, NC 28594

252-354-8548 voice  
252-354-5068 fax

[www.emeraldisle-nc.org](http://www.emeraldisle-nc.org)

**Town Planner**  
Josh Edmondson  
[jedmondson@emeraldisle-nc.org](mailto:jedmondson@emeraldisle-nc.org)



**DATE:** May 16, 2016  
**TO:** Planning Board  
**CC:** Frank A. Rush, Jr, Town Manager  
**FROM:** Josh Edmondson, CZO, Town Planner  
**SUBJECT:** **Text Amendment to Chapter 4: Use Regulations & Chapter 10: Definitions & Rules of Interpretation**

Because of recent ownership changes of businesses and inquiries from new businesses, staff has been analyzing the Town's requirements for outdoor music and/or artistic type performances. The current use is specifically listed as Musical, dance, dramatic, and other artistic programs or events, outdoor. Such an outdoor use is currently permitted in the government district and by special use in the camp, business and village east/west districts. The use also has additional standards which are listed below:

#### **4.2.3 - Musical, Dance, or Events, Outdoor Dramatic, and Other Artistic Programs**

All applications and permits for special uses for outdoor dances, outdoor music, outdoor drama, and similar outdoor amusements must comply with the following additional requirements:

- (1) The application for a special use must be accompanied by a site plan showing the dimensions of the property, the location and size of any proposed stages, the location and dimensions of the dance area, proposed seating arrangements for customers and participants, and the location and dimensions of the parking areas. Additionally, the site plans must indicate accesses to streets.
- (2) If night activities are proposed, a lighting plan must accompany the application for a special use permit describing the exterior lighting plan, location of all exterior lights, wattage, direction of illumination, and methods of shielding the lighting from adjacent areas.
- (3) The application for a special use permit must also include information concerning the type and manner of amplification of music and sound, type of activities to take place on the site and the audible range of the music and the sound from their amplification.
- (4) The application for a special use permit shall contain the following information:
  - (A) The maximum capacity of the facility.
  - (B) The frequency and hours of operation for the events and facilities proposed.
  - (C) All law enforcement and public services which may be required or necessary for the events and facilities.
- (5) If night activities are proposed, all lighting must be shielded from adjacent areas.
- (6) The applicant shall indicate and provide off-street parking of not less than one (1) space for each three (3) customers or participants. Provided, the Board of Commissioners may reduce the parking requirements or allow parking off the premises on land in close proximity to the proposed use if the land is under the control of the applicant.

(7)

The special use permit will be for such length of time as set forth in the permit issued by the Board of Commissioners, but shall be for a period not exceeding twelve (12) months. Provided, the special use permit may be renewed for one (1) or more successive periods not exceeding twelve (12) months each by the Board of Commissioners following recommendation by the Planning Board.

The current use and accompanying standards bring certain points forth about existing businesses having periodic outdoor entertainment secondary to the principal use. We have several restaurants and establishments that have live music outdoors periodically. None of these have requested a special use permit to do so. As I analyze the use standards, I interpret those standards to be better applicable to a primary use of property for outdoor performances rather than an incidental/secondary use. Looking at those standards, existing businesses already have many of those requirements in place and already approved by the Town through an existing site plan or commercial review.

In my opinion, we would be better suited to create a new use with standards that somewhat mirror those existing in 4.2.3. I would propose the new use to be called Incidental Outdoor Entertainment (incidental meaning accompanying but not a major part of something). This new use would be found on the table of permitted and special uses under the accessory and other uses and be permitted in the government, camp, business and village east/west districts. Additional use standards would be created and found as 4.2.13 Incidental Outdoor Entertainment. The following are the use standards staff is proposing:

#### **4.2.13 Incidental Outdoor Entertainment**

An application for a zoning permit for incidental outdoor entertainment must comply with the following additional requirements:

(1)

The application for a zoning permit must be accompanied by a site layout showing the dimensions of the property, the location of the entertainment area and how the area is proposed to be partitioned, the location and size of any stage, the location and dimensions of the dance area, proposed seating arrangements for customers and participants, and the means of ingress and egress to the outdoor entertainment area.

(2)

If night activities are proposed, a lighting plan must be submitted showing the location of exterior lights, wattage, direction of illumination and methods of shielding lighting from adjacent areas.

(3)

Information concerning the type and manner of amplification of music and sound, the audible range of the music and the sound from their amplification is needed.

(4)

The entertainment shall be for those patrons of the business conducting said activity.

(5)

The application for a zoning permit shall contain the following information:

(A)

The maximum occupancy of the facility

(B)

The frequency and hours of entertainment (must comply with Town's Noise Ordinance)

I think these are very applicable and amicable standards for the businesses and adjacent properties. It is both protecting the business owner and looking out for the interest of those adjacent properties as well. The Town currently permits live music/entertainment on our governmental property as permitted on the table of uses. The Town is continually striving to insure we are holding ourselves to a higher standard and are in full compliance with ordinances and

regulations. It would seem that we should permit businesses to operate in a similar fashion by similar guidelines as the Town regarding outdoor entertainment being permitted. If a particular issue/problem arises from the businesses outdoor entertainment and is found to be in violation of the Ordinance and permit issued, enforcement action as outlined in Chapter 9 Enforcement of the Unified Development Ordinance could be carried out. I do feel with the proposed amendment we are more appropriately addressing these incidental outdoor entertainment events that are small scale and infrequent in nature. The existing use standards would remain in place for those outdoor entertainment activities that are not incidental and secondary in nature.

Lastly, I do think it will be very beneficial to include a definition of incidental outdoor entertainment in Chapter 10 Definitions. The following is proposed to define this activity:

**Incidental Outdoor Entertainment**

Shall include music, dance, drama or similar artistic programs which is clearly incidental and secondary to the primary commercial use of the property, does not change the primary commercial property use, and meets all applicable requirements of this Ordinance.

Including this definition strengthens the case for enforcement action if issues arise with frequency hours or noise, due to the incidental outdoor entertainment. I look forward to discuss this with you at the May 23, 2016 Planning Board meeting.