

**(DRAFT)**  
**AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA TO ALLOW HOTELS IN  
THE CR ZONING DISTRICT SUBJECT TO SUPPLEMENTAL REGULATIONS**

**ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (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 comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

**WHEREAS**, the Board of Commissioners find that the Town of Nags Head 2017 Comprehensive Plan includes an objective supporting the preservation and maintenance of legacy commercial businesses, and advocates for flexibility with respect to legacy type establishments for renovations as a way to retain the character of the Town, specifically of the Beach Road and the Whalebone Junction Character Area; and

**WHEREAS**, the Board of Commissioners find that the Comprehensive Plan with respect to the South Nags Head Character Area supports providing existing hotels/motels and cottage courts with flexibility to repair and renovate, in order to remain relevant in the market; and

**WHEREAS**, the Board of Commissioners finds that these text amendments are consistent with the goals, objectives and policies of the Town’s adopted Comprehensive Plan, and that this action is reasonable and in the public interest, and is in the interest of and not contrary to the public’s health, safety, morals and general welfare for the Town to amend the Town’s Unified Development Ordinance as stated below.

**ARTICLE II. Construction.**

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis (“...”) shall remain as they currently exist within the Town Code.

**ARTICLE III. Amendment of the Unified Development Ordinance.**

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Unified Development Ordinance of the Town Code shall be amended as follows:

PART I. That **Section 6.6, Table of Use and Activities**, be amended to delete an erroneous “s” from “HOTELS,” and within the column associated with the CR zoning district, for the cell in the “HOTEL” row, add a “CS” to denote that the use requires a conditional use permit and is subject to supplemental regulations.

PART II. That **Section 7.12, Hotels**, be amended as follows:

**SECTION 7.12 HOTELS**

Hotels are permitted in accordance with Section 6.6, Table of Uses and Activities, **except that in the CR zoning district the hotel use shall only be allowed as a permitted use subject to a Conditional Use Permit upon a property when such use was lawfully conducted prior to and actively in operation as of January 1, 2021. Hotels shall be subject to provided** the following additional requirements and conditions ~~are met~~:

PART III. That **Table 7-2, Dimensional Requirements for Hotels, as contained in Section 7.12.1.**, be amended as follows:

TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS				
	CR	C-1	C-2	HO
<b>Lot Width</b>	<u>150 feet</u>	100 feet		150 feet
<b>Front Setback</b>	<u>The minimum front yard along property lines abutting the right-of-way line of S. Virginia Dare Trail/NC 12 or S. Old Oregon Inlet Road/NC 1243 shall be forty-five (45) feet.</u>	15 feet; portions of buildings greater than two stories shall be set back an additional 10 feet.	30 feet; portions of buildings greater than two stories shall be set back an additional 10 feet.	15 feet; portions of buildings greater than two stories shall be set back an additional 10 feet for every story over two. In any instance the setback need not exceed 30 feet.
<b>Rear Setback</b>	<u>25 feet</u>	25 feet		
<b>Side Setback</b>	<u>A minimum side yard of ten (10) feet is required from any side property line, other than a side property line along a street right-of-way; for buildings with a height greater than thirty-five (35) feet, such minimum required side yard shall increase by one</u>	10 feet; 15 feet for corner lot; portions of buildings greater than two stories shall be set back an additional 10 feet.		10 feet; 15 feet for corner lot; portions of buildings greater than two stories shall be set back an additional 10 feet for every story over two. In any instance the setback need not exceed 30 feet.

TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS

	CR	C-1	C-2	HO
	<u>(1) foot for each foot in height greater than thirty-five (35) feet. For any side property lines along a street right-of-way, the minimum required yard shall be no less than the minimum required front yard or side yard, whichever is greater.</u>			
<b>Height</b>	<u>60 feet</u>	35 feet		60 feet
<b>Open Space</b>	<u>A minimum of fifty percent (50%) of the area established by each minimum setback shall be undeveloped and landscaped as open space. Underground components of wastewater systems are allowed to be located within minimum required setbacks.</u>	50% of side yard to remain as open space.	50% of side yard to remain as open space.	50% of side yard to remain as open space. Minimum 5 feet, Maximum 10 feet.
<b>Lot Coverage</b>	<u>40%</u>	55%		65%
<b>Density</b>	<u>For the first acre, a maximum of 16 units shall be allowed; 20 units per acre shall be allowed for each additional acre, with the total allowable number of units prorated based upon partial acreage in excess of one acre.</u>	Maximum 20 units per site.	None	None
<b>Unit Size (Room)</b>	<u>Minimum 300 sq. ft.; Maximum 700 sq. ft.</u>	Minimum 300 sq. ft, Maximum 700 sq. ft.		
<b>Unit Size (Efficiency)</b>	<u>Minimum 400 sq. ft.; Maximum 700</u>	Minimum 400 sq. ft, Maximum 700 sq. ft.		

TABLE 7-2: DIMENSIONAL REQUIREMENTS FOR HOTELS				
	CR	C-1	C-2	HO
	sq. ft.			
<b>Unit Size (Suite)</b>	<u>Minimum 400 sq. ft.; Maximum 700 sq. ft.</u>	Minimum 400 sq. ft, Maximum 900 sq. ft. Up to 33% of units can be suites.		Minimum 400 sq. ft, Maximum 1,200 sq. ft. Up to 33% of units can be suites.
<b>Minimum Units Per Building</b>	<u>2</u>		2	
<b>Building Separation</b>	<u>20 ft; A sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six inches shall connect all principal buildings on the site. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.</u>	20 ft; A sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six inches shall connect all principal buildings on the site. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.		
<b>Ocean/Sound Access</b>	<u>NA</u>	Hotel parcels east of US 158 must be within 1,000 feet in a straight-line distance to a public ocean access. The access must consist of a minimum five-foot wide improved pedestrian path. Hotels west of US 158 must provide direct, private soundfront access	Hotel parcels east of US 158 must be within 1,000 feet in a straight-line distance to a public ocean access. The access must consist of a minimum five-foot wide improved pedestrian path. Hotels west of US 158 must provide direct, private soundfront access	None.
<b>Accessory Uses</b>	<u>Fishing pier (with CAMA authorization), restaurant, indoor entertainment facility, indoor public assembly, retail, office and on-site rental of beach chairs and umbrellas.</u>	Retail shops, offices, restaurants, indoor entertainment facilities, indoor public assembly for the benefit of occupants, guests and the general public, cottage court.  Hotel allowed as accessory to other commercial.  Dormitory for employee housing.  Single-family dwelling for employee/owner housing.		Uses permitted as accessory to hotels in the C-2 district and outdoor recreation activities as allowed in the HO district.  Hotel allowed as accessory to other commercial.  Dormitory for employee housing.  Single-family dwelling for employee/owner housing.

**ARTICLE IV. 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 Unified Development Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

**ARTICLE V. Effective Date.**

This ordinance amendment shall be in full force and effect upon the date of adoption by the Board of Commissioners.

\_\_\_\_\_  
Benjamin Cahoon, Mayor  
Town of Nags Head

ATTEST: \_\_\_\_\_  
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:  
Town Attorney \_\_\_\_\_  
Date adopted: \_\_\_\_\_  
Motion to adopt by Commissioner \_\_\_\_\_  
Motion seconded by Commissioner \_\_\_\_\_  
Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS