

(DRAFT)
**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO
NONCONFORMING HOTELS AND ACCESSORY USES TO PREEXISTING
FISHING PIERS**

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 7.12, Hotels, of Article 7., Supplemental Regulations, of the UDO**, be amended by the addition of Section 7.12.3., as follows:

7.12.3. Nonconforming Hotels.

Where an existing hotel is considered to be a legally nonconforming use, pursuant to Section 5.6 of the UDO, a conditional use permit may be sought in accordance with Section 3.8, Conditional Use Permits, to modify the use and/or structure, including enlarging or altering the use and/or structure, in a manner that would otherwise be precluded by the provisions of Section 5.6, or subsections thereof.

7.12.3.1. Required Findings.

In addition to the requirements of Section 3.8, Conditional Use Permits, no conditional use permit may be issued as authorized under this section until the applicant has clearly demonstrated that the request:

7.12.3.1.1. Will not be contrary to the objectives specified in the Comprehensive Plan; and

7.12.3.1.3. Will not adversely impact adjacent property or the surrounding area.

7.12.3.2. Dimensional Requirements

Such hotels shall be subject to the following dimensional requirements: Conditional Use Permits sought as allowed by Section 7.12.3. shall comply with these requirements, and existing nonconformities shall not be increased in their degree of nonconformity:

7.12.3.1.1. Minimum Front Yard along S. Virginia Dare Trail/NC 12 or S. Old Oregon Inlet Road (NC 1243)

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.

7.12.3.1.2. Minimum Side Yard

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 (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.

7.12.3.1.3. Open Space, Landscaping, and Wastewater Systems within Setback Areas

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.

7.12.3.1.4. Building Height

No building or structure shall exceed a maximum height of 60 feet.

7.12.3.1.5. Density

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.

7.12.3.1.6. Unit Size

Hotel units shall have a minimum floor area of 300 square feet, and hotel efficiency units shall have a minimum floor area of 400 square feet; no hotel unit or hotel efficiency unit shall have a floor area greater than 700 square feet.

7.12.3.1.7. Additional Requirements

Dimensional requirements for Lot Coverage and Rear Yard shall be as established within Section 8.2.1. for the CR zoning district.

7.12.3.3. Prohibited Activities

A conditional use permit may not be sought or issued under this section following the intentional demolition or to allow for the demolition of more than 50% of the gross floor area of any building wherein a nonconforming hotel use is located; this prohibition shall not apply to buildings determined to have been destroyed due to reasons outside of the control of the owner. This provision shall be administered to take into account the total of all floor area demolished in the preceding five (5) years, from the date of application for a conditional use permit.

PART II. That **Section 7.50.1. of Section 7.50, Fishing Piers, of Article 7., Supplemental Regulations, of the UDO**, be amended as follows:

7.50.1. Fishing piers, which may include accessory restaurant or retail uses, or dwelling units existing as of July 1, 2020, are permitted in the R-2 and CR districts in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided the following conditions are met:

PART III. That the **Table of Contents to Article 7 be updated to reflect Part I of this Ordinance.**

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