



AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AND ADDING LANGUAGE TO CREATE A NEW ZONING DISTRICT, C-5, HISTORIC CHARACTER COMMERCIAL.

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, 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. 160D-702, 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. § 160D-103, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, Section 2.4.4.3 of the Unified Development Ordinance provides that the powers and duties of the Planning Board include developing and recommending policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

WHEREAS, Section 3.5.1 of the Unified Development Ordinance makes clear that a zoning ordinance text amendment may be initiated by motion of the Board of Commissioners, by motion of the Planning Board, or by application by any person within the zoning jurisdiction of the Town;

WHEREAS, on October 19, 2022, the Nags Head Board of Commissioners adopted a moratorium on non-residential development in the area from Danube Street north to Hollowell Avenue, between NC 12 and US Highway 158. Town Ordinance 22-10-020 states that the Planning Board will need three meetings to request adequate research, conduct analyses, complete community engagement activities, and recommend appropriate alternatives. Any recommended ordinances or zoning map amendments will be forwarded to the Board of Commissioners for scheduling a public hearing at their February 1, 2023, regular meeting.

WHEREAS, the 2017 Comprehensive Land Use Plan provides the following policies and actions which should guide the Town's zoning and development actions:

LU-4d – Identify existing cohesive residential areas that are currently zoned commercial and consider rezoning to residential to preserve their integrity and limit future land use compatibility issues.

LU-4e – Develop regulations that prevent incompatible commercial development adjacent to areas with historical designations or significance.

LU-9b – Evaluate all current commercial zoning districts, based on this plan and the future land use map, to determine if they are functioning as envisioned and make necessary modifications. This should include the review of the existing C-2 district and determine if the C-1 or C-4 districts would be better suited than the current C-2 zoning along NC12, between the highways, and along US 158 (excluding major shopping center developments).

LU10a – Evaluate land uses specified in each zoning district and further clarify which uses are appropriate based on the intent of each district, their overall compatibility with current land uses, and desired future development patterns.

WHEREAS, consistent with Section 3.5.4 of the UDO (and subparts to that section) the Board finds that the proposed text amendment advances the public health, safety, or welfare; will help preserve the residential and historic character of areas of Town where commercial and non-residential uses or increases in or expansions of such uses are not compatible or desirable; is reasonable and in the public interest; and is consistent with the Town of Nags Head Comprehensive Land Use Plan.

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.

PART I. That Section 5.6, Nonconforming Use of a Structure, be amended as follows:

5.6.1. If a use involving individual structures or combinations of structures with a cumulative replacement cost of \$5,000.00 or more exists that was legal at the time of its creation but would not be allowed in the district under the terms of this UDO, the lawful use may continue, subject to the following provisions:

5.6.1.1. No existing structure devoted to a use not permitted by this UDO in the district in which it is located shall be enlarged, ~~extended, constructed, reconstructed, moved~~ or structurally altered in a way which increases the degree of nonconformity, ~~except in changing the use of the structure to a use permitted by the regulations of the district in which it is located.~~

A structure, conforming or nonconforming, occupied by a nonconforming principal use destroyed or otherwise modified by any means may be repaired, maintained, or replaced with an identical or similar structure and identical use, regardless of value, provided the repair, maintenance, or replacement does not create any new structural or use nonconformities, or increase the degree of existing structural or use nonconformities.

Site improvements, such as parking, stormwater management, landscaping, etc. may be made upon a property which contains a nonconforming use of a structure, however such improvements must meet the site design standards and dimensional requirements applicable to such improvements as established by the current Unified Development Ordinance.

5.6.1.2. Any nonconforming use may be extended throughout any part of a structure which was manifestly arranged or designed for such use at the time of adoption or amendment of this UDO, but no such use shall be extended to occupy any land outside such building. A conforming structure cannot be expanded to allow expansion of a nonconforming use.

5.6.1.3. Where a nonconforming use is superseded by a permitted use, the nonconforming use may not thereafter be resumed.

5.6.1.4. If the nonconforming use of any structure ceases for any reason for a period of more than 12 consecutive months, any subsequent use of the structure shall conform to the regulations specified by this UDO for the district in which such structure is located. For the purpose of this article, indicators of the cessation shall include, but not be limited to, no Town water or no electrical service has been legally provided and consumed for the nonconforming use or structure in question for a period of 12 consecutive months.

5.6.2. A conforming structure with a nonconforming use may be repaired and maintained, subject to the following provisions:

5.6.2.1. On any structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonloadbearing walls, fixtures, wiring or plumbing, provided that the cubic content or intensity existing when it became nonconforming shall not be increased.

5.6.2.2. If a structure containing a nonconforming use becomes dangerous to life, destroyed or unlawful due to lack of repairs and maintenance, the building inspector shall condemn the structure in accordance with G.S. 160D-1119, and the structure may thereafter be restored, repaired or rebuilt provided that the cubic content or intensity of the existing nonconforming use

is not increased, or that the use is changed to a use permitted by the regulations the district in which it is located.

5.6.2.3. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be dangerous to life by any official charged with protecting the public safety, or upon order of such official when he has determined that there is a clear and immediate danger to the public safety.

5.6.3. A nonconforming structure with a nonconforming use may be repaired and maintained, subject to the following provisions:

5.6.3.1. On any nonconforming structure containing a nonconforming use, work may be done ~~in any period of 12 consecutive months~~ on ordinary repairs or on repair or replacement of nonload-bearing walls, fixtures, wiring or plumbing, ~~to an extent not exceeding 50 percent of either the annually adjusted Dare County assessed tax value or independent appraisal value of the nonconforming structure as determined by a North Carolina Licensed Appraiser,~~ provided that the degree of nonconformity existing when it became nonconforming shall not be increased.

5.6.3.2. If a nonconforming structure containing a nonconforming use becomes dangerous to life, destroyed or unlawful due to lack of repairs and maintenance, where such destruction or lack of repairs and maintenance exceeds 50 percent of either the annually adjusted Dare County assessed tax value or independent appraisal value as determined by a North Carolina Licensed Appraiser, the building inspector shall condemn the structure in accordance with G.S. 160D-1119, and the structure shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

PART II. That **Section 6.2, Zoning Districts Established**, be amended as follows:

6.2.2. Zoning Districts Established.

In order to implement the purpose and intent of this UDO and the Comprehensive Plan, the following districts are established.

TABLE 6-1: ZONING DISTRICTS ESTABLISHED	
District Name	Abbreviation
Residential Districts:	
Low Density Residential	R-1
Medium Density Residential	R-2
High Density Residential	R-3
Commercial Districts:	
Neighborhood Commercial	C-1
General Commercial	C-2
Commercial Services	C-3
Arts and Culture	C-4
<u>Historic Character Commercial</u>	<u>C-5</u>
Commercial Residential	CR
Special Districts:	
Special Planned Development	SPD-20
Special Environmental	SED-80
Special Planned Development - Community	SPD-C
Ocean and Sound Waters	O&S

PART III. That **Section 6.2.4, Commercial Districts**, be amended as follows:

6.2.4. Commercial Districts.

The Commercial district designation is established to accommodate commercial development located primarily along the two major roadway corridors, US Highway

158 (US 158) and NC Highway 12 (NC 12). Neighborhood Commercial (C-1) is the least intense commercial designation that focuses on less intensive uses that serve the needs of the immediate residential neighborhoods. General Commercial (C-2) allows the broadest range of uses of all the commercial designations and provides both local and regional services. Commercial Services (C-3) is the most intense commercial district allowing warehouse, production, utility, and light industrial uses. The C-3 district is the only district that does not adjoin a major roadway corridor. The Arts and Culture (C-4) is established as a neighborhood commercial district with the purpose of encouraging art, galleries, and cultural activities. The Historic Character Commercial (C-5) is established to accommodate neighborhood scale commercial and residential development patterns that are compatible with and protect the surrounding residential areas including Historic Cottage Row. The Commercial Residential (CR) is established to accommodate oceanfront development and associated commercial uses.

Section 6.2.4.6, C-5 Historic Character Commercial District. The C-5 Historic Character Commercial district is intended to accommodate small, neighborhood scale, pedestrian oriented commercial and residential development patterns with single family dwellings and neighborhood serving businesses, consistent with the size and scale of cottages within Historic Cottage Row. Commercial development must be designed in use, scale, character, and intensity to be compatible with and protect the surrounding residential area, including Historic Cottage Row, natural resources and scenic viewsheds. The district shall encourage development of unique, locally owned businesses designed to be reflective of the community's heritage and lifestyle both in scale and massing as well as site layout. Appropriate uses for this area include single-family dwellings (5,000 sq. ft. or less), office, retail, take-out, walk-up and sit-down restaurants, appropriate scale shopping center or group developments, gallery and museums, cottage courts and churches.

PART IV. That **Section 6.6, Table of Uses and Activities**, be amended as follows:

Section 6.6 Table of Uses and Activities.

Table Key:

P = Permitted Use

R = Supplemental Regulations

S = Special Use

Blank = Not allowed in that district

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
1	Residential	Cluster Housing		PR															Section 7.1
1	Residential	Cottage Court				SR	SR	SR			SR								Section 7.2
1	Residential	Dwelling, Accessory																	Section 7.3
1	Residential	Dwelling, Large Residential	PR	PR	PR	PR		PR			PR	PR		PR				PR	Section 7.4
1	Residential	Dwelling, Multi-Family					SR	SR											Section 7.5
1	Residential	Dwelling, Single-Family (detached)	P	P	P	P	P	P		P	P	P		P				P	
1	Residential	Dwelling, Two-Family		P	P	P	P	P		P	P								
1	Residential	Granny Pods/Temporary Health Care Structures	PR	PR	PR	PR	PR	PR		PR	PR								Section 7.6
1	Residential	Home Occupation - Class 1	PR	PR	PR	PR	PR	PR		PR	PR								Section 7.7
1	Residential	Home Occupation - Class 2	SR	SR	SR		SR	SR				SR							Section 7.7
1	Residential	Home Occupation - Class 3				SR	SR	SR		SR									Section 7.7
1	Residential	Manufactured Home (as Single-Family Dwelling)							P										
1	Residential>>	Short-term rental	P	P	P	P	P	P		P	P	P	P	P	PR	P	P		
1	Residential	Townhouse						SR				SR							Section 7.5
1.1	Residential - Group	Adult Care Home (over six residents)		P	P														
1.1	Residential - Group	Bed and Breakfast				S	S	S		S	S								
1.1	Residential - Group	Boarding Houses	SR	SR	SR	SR	SR	SR		SR									Section 7.8
1.1	Residential - Group	Child Care Facility, Family Child Care Home		PR	PR														Section 7.9
1.1	Residential - Group	Dormitory					SR	SR			SR		SR						Section 7.10
1.1	Residential - Group	Family Care Homes/Halfway Homes	PR	PR	PR	PR	PR	PR		PR	PR								Section 7.11
1.1	Residential - Group	Family Foster Home	P	P	P	P	P	P		P	P								

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			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4	SPD-20		SED-80	SPD-C*	O&S	CO	HO	SRO		
1.1	Residential - Group	Hotel				SR	SR	SR											Section 7.12	
1.1	Residential - Group	Multi-Unit Assisted Housing with Services		P	P															
2	Retail	Art Gallery				P	P	P		P		P								
2	Retail	Art Gallery - Owner Occupied				P	P	P		P		P								
2	Retail	Artisan's Workshop (3,000 sq. ft. or less)				PR	PR	PR		PR		PR							Section 7.13	
2	Retail	Artisan's Workshop (exceeding 3,000 square feet)				SR	SR	SR		SR									Section 7.13	
2	Retail	Auction House							PR										Section 7.14	
2	Retail	Beach Recreation Equipment Rentals/Sales				P	P	P		P		P								
2	Retail	Bicycle Shop (repair, retail, rental)					P	P		P		P								
2	Retail	Convenience Store					P	P				P								
2	Retail	Firearms Sales and Service						P												
2	Retail	Food/Grocery Store				P	P	P				P								
2	Retail	Furniture Store						P												
2	Retail	General Retail, including clothing, gifts, candy, toys, shoes, jewelry, notions, beach equipment, bakery, antiques, hobby goods, magazines/comics, crafts, dry goods, gifts, musical instruments, bookstores, sporting goods (and the incidental manufacturing, repair, or service of goods on the premises)				P	P	P		P		P								
2	Retail	Greenhouse/Plant Nursery					P	P	P											
2	Retail	Hardware Store					P	P												
2	Retail	Pet Shop/Dog Grooming					PR	PR		PR		PR							Section 7.15	
2	Retail	Pharmacy					P	P												
2	Retail	Production/Repair/Sales Eyeglasses, Hearing Aids, Prosthetics					P	P	P											
3	Service	Automobile Repair						SR											Section 7.16	
3	Service	Bail Bonds						P												
3	Service	Banking Institution					P	P												
3	Service	Broadcasting Studios						P												

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			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4	C-5	SPD-20	SED-80	SPD-C*	O&S	CO	HO		SRO
3	Service	Car Washes (Automated and Self-Service)						CS											Section 7.18
3	Service	Carpet Sales and Installation							P										
3	Service	Child Care Facility, Child Care Center					SR	SR											Section 7.9
3	Service	Dry Cleaners and Laundromats (Pickup only)					P	P											
3	Service	Fire Safety Equipment Sales and Service							P										
3	Service	Food Bank						SR											Section 7.19
3	Service	Fueling Station						SR			SR								Section 7.20
3	Service	Funeral Home						P											
3	Service	Group Fitness-Aerobics/Dance/Karate/Yoga					P	P	P	P	P								
3	Service	Hair Salon					P	P		P	P								
3	Service	Indoor Fitness/Gymnasium					P	P	P	P	P								
3	Service	Indoor Public Assembly Facility				S	P	P		P	P								
3	Service	Locksmiths						P	P										
3	Service	Massage and Bodywork Therapy					PR	PR		PR	PR					PR			Section 7.21
3	Service	Metaphysical Wellness Services						SR											Section 7.22
3	Service	Parking Lots					P	P											
3	Service	Real Estate Rental Management Facility							P										
3	Service	Security System Sales/Service							P										
3	Service	Sexually Oriented Business							SR										Section 7.23
3	Service	Shoe Repair					P	P		P									
3	Service	Spa					P	P		P	P								
3	Service	Tailor					P	P		P	P								
3	Service	Tattoo/Body Piercing							S										
3	Service	Taxi/Limousine Service							S										
3	Service	Telecommunications Sales and Service						P	P										
	Service	Tutoring Facility/Learning Center						P											
3	Service	Veterinary Clinic with Animal Boarding						SR											Section 7.24.1
3	Service	Veterinary Clinic with no Animal Boarding					PR	PR		PR									Section 7.24.2
3	Service	Wallpaper Sales and Installation							P										
3	Service	Water Well Drillers Office, Storage, Sales and Install							P										

	Use Category/Class	Use Type	Residential Districts			Commercial Districts						Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4	C-5	SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
4	Food Service	Coffee Shop/Juice Bar					PR	PR		PR	PR								Section 7.25
4	Food Service	Food Truck				PR	PR	PR		PR	PR								Section 7.26
4	Food Service	Ice Cream Shop				P	P	P		P	P								
4	Food Service	Microbreweries					SR	SR		SR									Section 7.27
4	Food Service	Restaurant - Drive In					SR	SR			SR								Section 7.28
4	Food Service	Restaurant - Drive Through						SR											Section 7.29
4	Food Service	Restaurant - Neighborhood				PR	PR	PR		PR	PR								Section 7.30
4	Food Service	Restaurant - Sit Down				PR	PR	PR		PR	PR								Section 7.31
4	Food Service	Restaurant - Take Out				P	P	P		P	P								
5	Office	Building Contractor's Office						P	P										
5	Office	Office w/Outdoor Storage of Materials/Equip./Vehicles							P										
5	Office	Professional Office, including General Business, Financial, Real Estate Sales, Insurance, Attorney, Accountant, Mortgage					P	P		P	P								
5	Office	Trade Association Office							P										
6	Commercial Mixed Uses	Commercial with Accessory Residential					PR	PR		PR	PR								Section 7.32, 7.33
6	Commercial Mixed Uses	Group Development					S	S			S								Section 7.32
6	Commercial Mixed Uses	Mixed Use Development					SR	SR		SR	SR								Section 7.32, 7.34
6	Commercial Mixed Uses	Multiple Principal Uses				SR	SR	SR	SR	SR									Section 7.32, 7.35
6	Commercial Mixed Uses	Shopping Center						SR			SR								Section 7.32
7	Institutional	Adult Day Service Center						SR											Section 7.36
7	Institutional	Cemetery			SR								SR						Section 7.37
7	Institutional	Colleges, Universities, Community Colleges						S											
7	Institutional	Education and Research Facilities					S	S	S										
7	Institutional	School						SR											Section 7.38
7	Institutional	Municipally Operated Farmer's Market						P											
7	Institutional	Fire Station		SR															Section 7.39.1
7	Institutional	Government Administrative Office			P														
7	Institutional	Libraries					S	S			S								
7	Institutional	Museum					P	P		P	P	P							
7	Institutional	Nonprofit/Community Outreach Center					P	P											

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
7	Institutional	Nonprofit/Community Outreach Center w/Outdoor Aquatic Fitness Facility		SR				PR					SR						Section 7.40
7	Institutional	Nursing Home/Medical Offices											SR						Section 7.41
7	Institutional	Police Shooting Range											PR						Section 7.42
7	Institutional	Post Office						P											
7	Institutional	Private Club (Non-Profit)	PR	PR	PR														Section 7.43
7	Institutional	Private Clubhouse for 501(c)8 Fraternal Beneficiary Societies as defined by IRS						PR											
7	Institutional	Public Utility Facility	SR	SR	SR	SR	SR	SR	SR		SR	SR							Section 7.44
7	Institutional	Public Works Facility							SR										Section 7.39.2
7	Institutional	Religious Complex		SR	SR		SR	SR	PR		SR	SR							Section 7.45
7	Institutional	Religious Complex w/Accessory School/Daycare		SR	SR			SR	PS		SR	SR							Section 7.45
7	Institutional	Well Fields, Public Water Supply											SR						Section 7.46
7	Institutional	Wastewater Treatment Plants (accessory to pier)						SR											Section 7.47
8	Medical	Alcohol & Drug Outpatient Treatment						P											
8	Medical	Dialysis Center						P											
8	Medical	Medical Office					P	P		P	P								Section 7.41
9	Recreation	Bowling Alley						S											
9	Recreation	Community Garden	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR							Section 7.48
9	Recreation	Environmental Awareness Area											SR	SR					Section 7.49
9	Recreation	Fishing Pier		SR		SR		SR								SR			Section 7.50
9	Recreation	Indoor Entertainment					PR	PR											Section 7.51
9	Recreation	Nonprofit Private Outdoor Recreation											P						
9	Recreation	Private Beach Access Facilities				SR													Section 7.52
9	Recreation	Public Beach/Sound Access/Bathhouse	P	P	P	P	P	P					S						
9	Recreation	Private Pier/Docks (Principal Use)	PR	PR												PR			Section 7.53
9	Recreation	Private Park/Playgrounds, Accessory to a Residential Subdivision or a Multi-Family Development	PR	PR	PR	PR							PR						Section 7.54
9	Recreation	Municipal Park		SR				PR						SR					Section 7.55
9	Recreation	Skate Park Facility						SR											Section 7.56
9	Recreation	Theater						P											
9.1	Recreation-Land Dependent	Aerial Adventure Park														SR			Section 7.57

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			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
9.1	Recreation—Land Dependent	Designated Public Events Site														SR			Section 7.58
9.1	Recreation—Land Dependent	Go Kart Track														SR			Section 7.59
9.1	Recreation—Land Dependent	Grass Surface Putting Course														SR			Section 7.60
9.1	Recreation—Land Dependent	Mini-Golf														S			
9.1	Recreation—Land Dependent	Outdoor Amusement Rides/Games														SR			Section 7.61
9.1	Recreation—Land Dependent	Outdoor Sport Climbing Wall														SR			Section 7.62
9.2	Recreation—Water Dependent	Parasail Rental													C	C			
9.2	Recreation—Water Dependent	Tour Boat, (49 Passengers or Less)													C	C			
9.2	Recreation—Water Dependent	Watercraft Rental, Non-Powered													SR	SR			Section 7.63
9.2	Recreation—Water Dependent	Watercraft Rental, Powered													SR	SR			Section 7.63
9.2	Recreation—Water Dependent	Watercraft, Personal (Jet-Ski)													SR	SR			
10	Telecommunications	Communication Towers, Major			SR				SR										Section 7.64
10	Telecommunications	Concealed Building mounted Antenna, Installed Flush with Roofline				PR		PR											Section 7.65
10	Telecommunications	Concealed Building mounted Antenna, Not Installed Flush with Roofline						S											
10	Telecommunications	Small Wireless Facilities	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR						Section 7.66
10	Telecommunications	Telephone Switching Stations and Electric Substations							SR										Section 7.67
11	Warehouse/Light Industrial	Asphalt/Concrete Processing							SR										Section 7.68
11	Warehouse/Light Industrial	Assembly or Packaging of Articles							S										
11	Warehouse/Light Industrial	Beverage Manufacturing, Bottling and Processing							S										
11	Warehouse/Light Industrial	Brick and Masonry Facilities							S										

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			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO	
11	Warehouse/Light Industrial	Canvas, Fabric and Upholstery Fabrication							P										
11	Warehouse/Light Industrial	Commercial Crop Production, Indoor					P	P	P	P									
11	Warehouse/Light Industrial	Electrical Equipment Assembly							S										
11	Warehouse/Light Industrial	Fine Craft and Folk Art Production					P	P	P	P									
11	Warehouse/Light Industrial	Indoor Training Facility for Dog Agility							P										
11	Warehouse/Light Industrial	Junk Yards, Scrap Yards and Salvage Facilities							SR										Section 7.69
11	Warehouse/Light Industrial	Mini Storage (Self-Storage) Complex							SR										Section 7.70
11	Warehouse/Light Industrial	Open Space Infrastructure							P										
11	Warehouse/Light Industrial	Outdoor Storage in Crates, Trailers, etc.							P										
11	Warehouse/Light Industrial	Outdoor Storage of Construction Equip./Materials							S										
11	Warehouse/Light Industrial	Outdoor Storage of Vehicles, Equip. and Other Goods							P										
11	Warehouse/Light Industrial	Screen Printing Facility							SR										Section 7.71
11	Warehouse/Light Industrial	Stone Cutting, Shaping and Finishing Facilities							P										
11	Warehouse/Light Industrial	Trade Centers							SR										Section 7.72
11	Warehouse/Light Industrial	Warehousing & Storage Facilities							S										
12	Accessory Uses	Bulkhead/Estuarine Bulkhead	P	P	P	P	P	P	P	P		P	P		P	P		P	
12	Accessory Uses	Customary Accessory Church Facilities		S	S				S	P		S							
12	Accessory Uses	Docking Facility, Accessory to Restaurant							P							P			Section 7.73
12	Accessory Uses	Electric Vehicle Charging Station	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR					Section 7.17
12	Accessory Uses	Electric Vehicle Battery Exchange Station							PR										Section 7.16
12	Accessory Uses	Garage	P	P	P	P	P	P	P	P	P	P	P			P		P	
12	Accessory Uses	Greenhouses	P	P	P	P	P	P	P	P	P	P							
12	Accessory Uses	Heliport, Accessory to Hospital and Medical Offices											SR						Section 7.74
12	Accessory Uses	On-site Rental of Beach Chairs & Umbrellas						PR	PR										Section 7.75
12	Accessory Uses	Outdoor Stands - Accessory to Shopping Centers and Group Developments						PR	PR										Section 7.76

	Use Category/Class	Use Type	Residential Districts			Commercial Districts					C-5	Special Districts				Overlay Districts			Supplemental Regulations	
			R-1	R-2	R-3	CR	C-1*	C-2	C-3	C-4		SPD-20	SED-80	SPD-C*	O&S	CO	HO	SRO		
12	Accessory Uses	Portable Storage Units/Temporary Construction Trailers	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR							Section 7.77
12	Accessory Uses	Shed	P	P	P	P	P	P	P	P	P	P	P						P	
12	Accessory Uses	Solar Energy Facility, Accessory	P	P	P	P	P	P	P	P	P	P	P						P	
12	Accessory Uses	Swimming Pool	P	P	P	P	P	P		P	P	P	P						P	
12	Accessory Uses	Walls and Fences	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR			PR			PR	Section 7.78
12	Accessory Uses	Wind Energy Facility, Rooftop	PR	PR	PR	PR		PR				PR	PR		PR				PR	Section 7.79.1
12	Accessory Uses	Wind Energy Facility, Small	P	P	P	P		P				P	P					SR	P	
12	Accessory Uses	Wind Energy Facility, Vertical Axis	PR	PR	PR	PR		PR					PR	PR					PR	Section 7.79.2
		NOTES: * Refer to Article 9, Section 9.36 Table of Uses and Activities for the SPD-C District.																		

PART V. That **Section 8.2, Development Standards – Primary Zoning Districts**, be amended as follows:

Section 8.2 Development Standards - Primary Zoning Districts.

8.2.1. Dimensional Requirements.

District	Minimum Lot Area ¹	Minimum Lot Width	Minimum Front Yard Depth	Minimum Side Yard Depth	Minimum Rear Yard Depth	Maximum Building Height ²	Lot Coverage ³
R-1 Low-Density Residential Single-Family Large Residential ⁴	20,000 sq. ft.	75 feet	30 feet	12 feet	20% of lot depth, not to exceed 30 feet ⁵	35 feet, 42 feet if utilizing 8/12 roof pitch	30% plus 300 sq. ft. or 33%, whichever is greater
R-2 Medium-Density Residential Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	20,000 sq. ft. 30,000 sq. ft. 20,000 sq. ft. per dwelling unit	70 feet	30 feet	10 feet	20% of lot depth, not to exceed 30 feet ⁵	35 feet, 42 feet if utilizing 8/12 roof pitch	30% plus 300 sq. ft. or 33%, whichever is greater
R-3 High-Density Residential Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft. per dwelling unit	60 feet	30 feet	8 feet	20% of lot depth, not to exceed 30 feet	35 feet, 42 feet if utilizing 8/12 roof pitch	30% plus 300 sq. ft. or 33%, whichever is greater
CR Commercial Residential¹⁰ Commercial ⁶ Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	15,000 sq. ft. 15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft. per dwelling unit	50 feet	See footnote 6 30 feet 30 feet	8 feet	25 feet 20% of lot depth, not to exceed 30 feet ⁸	35 feet, 42 feet if utilizing 8/12 roof pitch	40% 30% plus 300 sq. ft. or 33%, whichever is greater
C-1 Neighborhood Commercial Commercial ⁶ Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	15,000 sq. ft. 15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft. per dwelling unit	50 feet	See footnote 6 30 feet 30 feet	15 feet ⁷	25 feet 20% of lot depth, not to exceed 30 ft.	35 feet, 42 feet if utilizing 8/12 roof pitch	55% 30% plus 300 sq. ft. or 33%, whichever is greater
C-2 General Commercial Commercial ⁶ Single-Family	15,000 sq. ft. 15,000 sq. ft.		See footnote 6	15 feet ⁷	25 feet	35 feet, 42 feet if utilizing 8/12 roof pitch	55% 30% plus 300 sq. ft. or

District	Minimum Lot Area ¹	Minimum Lot Width	Minimum Front Yard Depth	Minimum Side Yard Depth	Minimum Rear Yard Depth	Maximum Building Height ²	Lot Coverage ³
Two-Family Large Residential ⁴ Lots using individual wells/septic tanks	22,500 sq. ft. 20,000 sq. ft. per dwelling unit		30 feet 30 feet	8 feet 8 feet	20% of lot depth, not to exceed 30 ft.		33%, whichever is greater
C-3 Commercial Services⁸	25,000 sq. ft.	100 feet	30 feet	20 feet	25 feet	35 feet, 42 feet if utilizing 8/12 roof pitch	⁹
C-4 Arts and Culture Commercial⁶ Single-Family Two-Family Large Residential ⁴ Lots using individual well/septic tanks	15,000 sq. ft. 15,000 sq. ft. 15,000 sq. ft. 22,500 sq. ft. 20,000 sq. ft.	60 feet	See footnote 6	10 feet	20% of lot depth, not to exceed 30 ft.	35 feet, 42 feet if utilizing 8/12 roof pitch	40% 30% plus 300 sq. ft. or 33%, whichever is greater
<u>C-5 Historic Character Commercial</u> <u>Commercial⁶</u> <u>Single-Family</u> <u>Two-Family</u> <u>Large Residential⁴</u> <u>Lots using individual well/septic tanks</u>	<u>15,000 sq. ft.</u> <u>15,000 sq. ft.</u> <u>22,500 sq. ft.</u> <u>20,000 sq. ft. per dwelling unit</u>	<u>50 feet</u>	<u>See footnote 6</u> <u>30 feet</u> <u>30 feet</u>	<u>15 feet⁷</u> <u>8 feet</u> <u>8 feet</u>	<u>25 feet</u> <u>20 % of lot depth, not to exceed 30 ft.</u>	<u>35 feet, 42 feet if utilizing 8/12 roof pitch</u>	<u>45%⁹</u> <u>30% plus 300 sq. ft. or</u> <u>33% whichever is greater</u>

Footnotes:

- ¹ Minimum Lot Area - for nonconforming lots, refer to Section 5.2, Nonconforming Lots of Record which establishes regulations under which a structure can be built on a legally nonconforming lot that does not meet the current minimum lot area or width requirements.
- ² Maximum Building Height - refer also to subsection 8.6.4 Building Height.
- ³ Lot Coverage - refer also to subsection 8.6.6 Lot Coverage.
- ⁴ Large Residential Dwelling - refer to Section 7.4 for dimensional requirements.
- ⁵ Minimum Rear Yard Depth - for oceanfront properties, refer to subsection 8.6.3.3 Oceanfront Property.
- ⁶ Commercial - refer to Article 10, Part VI, Commercial Design Standards to determine front yard setback and building size.
- ⁷ Minimum Side Yard Depth - the total combined side yard shall be a minimum of 15 feet. In no instance shall either side yard be less than five feet.
- ⁸ C-3 Commercial Services District - refer also to Section 8.3 Special Development Standards - Primary Zoning Districts.
- ⁹ Lot Coverage, C-3 District and C-5 District - refer to subsection 8.6.6.4 Special Requirements for the C-3 District and C-5 District.

¹⁰ Building Size Limitation in CR- refer to Section 11.44.3 Coastal High Hazard Areas (Zones VE) and Properties East of NC 12 and SR 1243.

PART VI. That **Section 7.15, Pet Shop**, be amended as follows:

Pet shop, is permitted in accordance with [Section 6.6](#), Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.15.1. All pens and kennels shall be in an enclosed, air-conditioned building.

7.15.2. Unenclosed runs are prohibited.

7.15.3. Within the C-5, Historic Character Commercial Zoning District, only grooming is allowed.

PART VII. That **Section 7.20, Fueling Station**, be amended as follows:

Fueling stations are permitted in accordance with [Section 6.6](#), Table of Uses and Activities, provided that the following additional requirements and conditions are met:

~~7.20.1. No principal or accessory building devoted to auto repair shall be located within fifty (50) feet of an existing residential use or district.~~

~~7.20.2. There will be no storage of wrecked or abandoned vehicles.~~

~~7.20.31. No petroleum pumps shall be nearer than fifty (50) feet to any right-of-way or property line.~~

~~7.20.42. All underground fuel storage tanks shall be equipped with leak detection devices. The type of detection device shall be approved by and subject to periodic inspections by the Town.~~

~~7.20.53. In addition to the buffering requirements of [Section 10.93](#), Landscaping, Buffering, and Vegetation Preservation, a ten-foot wide commercial transitional protective yard shall be placed along the frontage of any street right-of-way.~~

7.20.4. In addition to the conditions above, when a Fueling Station is proposed within the C-5, Historic Character Commercial Zoning District, the following conditions shall apply:

7.20.4.1. Fueling Stations shall have no more than four (4) fuel dispensers.

7.20.4.2. No fueling station, with or without a convenience store, shall be constructed on a lot having frontage on NC 12.

7.20.4.3. Convenience store use associated with a fueling station shall not exceed 3,500 sf. of habitable building area.

PART VIII. That **Section 7.32, General Provisions, Commercial Mixed-Use**, be amended as follows:

Section 7.32 - General Provisions.

The following provisions related to Commercial Mixed-Use apply to any of the following uses from the table in Section 6.6: Commercial with Accessory Residential, Group Development, Mixed-Use Development, Multiple Principal Uses, and Shopping Centers. In any Commercial Mixed-Use development, uses are limited to the categories and uses listed below. The following provides the allowable uses for all Commercial Mixed-Use designations as permitted in accordance with [Section 6.6](#), Table of Uses and Activities. Please note that if a use is listed below however it is not permitted within the zoning district in the table in Section 6.6, it shall not be permitted as part of a Commercial Mixed-Use development within that zoning district.

PART IX. That **Section 8.3, Special Development Standards – Primary Zoning Districts**, be amended as follows:

8.3.2. C-5, Historic Character Commercial District.

8.3.2.1. Where the requirements listed below conflict with other requirements of the Unified Development Ordinance, this Section shall supersede.

8.3.2.1.1. Commercial structures on lots fronting NC 12 shall not exceed 4,200 square feet of habitable building area.

8.3.2.1.2. Commercial structures on lots fronting US Highway 158 shall not exceed 10,000 square feet of habitable building area.

8.3.2.1.3. Commercial structures developed on lots having frontage on both NC 12 and US Highway 158 shall not exceed 4,200 square feet of habitable building area, however, if the entirety of the structure is located 75 feet or greater from the NC 12 right-of-way, the structure size may be increased up to 10,000 square feet of habitable building area.

8.3.2.2. In addition to achieving compliance with the commercial design standards of Article 10, Part VI of the Unified Development Ordinance, when reviewing a Special Use Permit request, the Board of Commissioners must also make a finding that the proposed building design reflects the heritage of “Old Nags Head” and does not diminish the unique architectural character of the Nags Head Beach Cottage Row Historic District or the surrounding properties.

8.3.2.3. All new construction, any increases in building area, customer service area, lot coverage, addition of outdoor storage/customer waiting areas, or change of use of any commercial structure within the C-5 District must be approved via the Special Use Permit/Site Plan Review process.

PART X. That **Section 8.6.6.4, Special Requirements for the C-3 District** be amended as follows:

8.6.6.4. Special Requirements for the C-3 District and C-5 District. In the C-3 district, lot coverage shall be in accordance with the following table:

8.6.6.4.1. Within the C-3, Commercial Services Zoning District, lot coverage shall be in accordance with the following table:

Distance from Fresh Pond	Maximum Permeable Pavement	Maximum Impermeable Surface	Minimum Open Space
0—500 feet	25%	30%	45%
Over 500 feet	25%	45%	30%

8.6.6.4.2. Within the C-5, Historic Character Commercial Zoning District, lot coverage shall not exceed 45% of the lot area. Lot coverage may be increased to 55% of the lot area with the use of permeable paving materials.

PART XI. That **Section 10.82, Commercial Design Standards, Applicability**, be amended as follows:

These design standards shall apply to all building construction or remodeling projects requiring a special use permit or site plan review according to requirements found in this UDO. These standards shall not apply to the following uses:

- Fishing piers
- Public utility facilities

- Single-family dwellings and Two-family dwellings
- Projects located in the C-3, Commercial Services Zoning District.

Except for the uses listed above, all existing principal structures located in the Commercial Residential (CR) District, Neighborhood Commercial (C-1) District, General Commercial (C-2) District, Arts and Culture (C-4) District, Historic Character Commercial (C-5), and The Village at Nags Head SPD-C Commercial 1, Commercial 2, and Hotel zoning districts which do not meet the requirements of this section shall be regulated in accordance with Article 5, Nonconformities of this UDO. Where a project subject to site plan or special use review is associated with an existing building, such as an addition or partial remodeling, these design standards shall apply only to the new construction, or the part of the building being remodeled. These standards shall also apply to any accessory building greater than five hundred (500) square feet located on a site with a principal building that is regulated by this section.

PART XII. That **Section 10.24, Signs Permitted in Commercial Districts and the Commercial/Residential District** be amended as follows:

Signs permitted in the C-1, C-2, C-3, C-4, C-5, and CR districts are as follows:

PART XIII. That **Section 7.78, Walls and Fences** be amended as follows:

7.78.3. Within any residential district (R-1, R-2, R-3, CR, SED-80, SPD-20, and SPD-C), and within any other district where the existing or proposed principal permitted use of the property is single-family or two-family residential (C-1, C-2, and C-4, and C-5), no wall or fence shall exceed four feet in height within a front yard or the frontward one-half portion of the side yard or six feet in height in a rear yard or the rearward one-half portion of the side yard. In the CR district, a fence located in the front yard and frontward one-half portion of the side yard may be increased to a height not exceeding six feet, provided that the fence meets the minimum required front yard and side yard setback distances established for single-family and two-family uses.

PART XIV. That **Section 7.45, Religious Complexes** be amended as follows:

7.45.1. Dimensional Requirements.

The following dimensional requirements shall not apply to religious complexes occupying a tenant space within a building with multiple tenant spaces.

TABLE 7-3: REQUIREMENTS FOR RELIGIOUS COMPLEXES					
	R-2	R-3	SPD-20	C-2	<u>C-5</u>
Building Separation	30 feet				
Setbacks	25 feet property line; 30 feet street or right-of-way				
Ratio of Floor Area to Site Area	1:6	1:4	1:6	1:4	
Lot Coverage	30%; may increase to 45% with stormwater management facilities designed to retain and infiltrate the two-inch storm event			55%	<u>45%; may increase to 55% with permeable paving materials.</u>

PART XV. That **Section 7.23, Sexually Oriented Businesses** be amended as follows:

7.23.2. No sexually oriented businesses shall be permitted in any building which is :

7.23.2.2. Located within four hundred (400) feet in any direction from a residential zoning district (R-1, R-2, R-3, C-4, C-5, SPD-20, SPD-C, CR).

PART XVI. That Appendix A – Definitions be amended as follows:

Commercial transitional protective yard means a buffered protective yard on a commercial (C-1, C-2, C-3, and C-4, and C-5) lot. A commercial transitional protective yard is a required open space other than a court unoccupied and unobstructed by any structure or portion of a structure; provided, however, that fences, poles, posts may be permitted in any commercial transitional protective yard, subject to height limitations and requirements limiting obstruction of visibility or any other requirement of this UDO.

Convenience Store means a retail store that provides the public with a convenient location to purchase a variety of primarily packaged consumable products, generally food, beverages, and other household supplies. A convenience store is often found in conjunction with a fueling station.

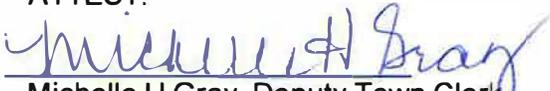
Fueling Station means retail place of business operated for the purpose of storing and dispensing motor vehicle fuel to the general public.

Grocery Store means a retail store that specializes in selling food, both fresh and prepackaged. A grocery store sells items such as fresh produce, meats, dairy, and often times bakery goods alongside canned, frozen and prepared foods. In addition, a grocery store will sell a full range of household, healthcare, and personal care items.

PART XVII. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 15 day of March 2023.


Benjamin Cannon, Mayor

ATTEST:


Michelle H Gray, Deputy Town Clerk

APPROVED AS TO FORM:


John Leidy, Town Attorney

Date adopted: March 15, 2023

Motion to adopt by Commissioner Kevin Brinkley

Motion seconded by Commissioner Bob Sanders

Vote: 4 AYES 0 NAYS