



AN ORDINANCE AMENDING THE TOWN CODE AND UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO SHORT TERM RENTAL REGISTRATION REGULATIONS.

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

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 Town Code 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, the Planning Board and Board of Commissioners received an update on the *v. City of Wilmington* appeal and were made aware that the town's existing short-term rental registration program is likely not acceptable in its current form.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to the existing Town Code. Any portions of the existing Town Code (which are not) 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 12, Article VIII. Short-Term Rentals be amended to remove the registration requirements as follows:

ARTICLE VIII. - SHORT-TERM RENTALS

Sec. 12-251. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Operator means the proprietor or manager of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other possessory capacity.

Residential property means an apartment, studio, condominium, single-family home, townhouse, cottage or other property devoted to residential use or occupancy by one or more persons for a definite or indefinite period.

Short-term rental means the rental of residential property for vacation, leisure, recreation, or other purposes for fewer than 30 days by a person who has a permanent residence to which he/she intends to return.

(Ord. No. 19-04-006, Pt. I, 4-3-2019)

~~Sec. 12-252. - Regulations.~~

~~(a) [Established.] There is hereby established a short-term rental registry. Upon offering any short-term residential rentals, all operators shall register with the town. This shall be an~~

annual registration for each property offered for short term residential rental. After the initial registration of each short term rental is complete, the annual registration and fee shall be paid by September 1st of each year. The registration shall require the operator to provide the following information:

- (1) Complete name and address of the operator and any local contact person that would be available to respond to issues related to the operation of the property as a short term rental.
- (2) Address of each property in the town offered for short term residential rental by the operator.
- (3) Disclosure of whether or not liability insurance coverage is in effect to operate the residential property as a short term rental.
- (4) Signed acknowledgement that the owner is aware of all local and state laws pertaining to the operation of a short term rental, including the North Carolina Vacation Rental Act, and the requirement to pay all sales and occupancy taxes.

(b) *Registry exemptions.* The following shall not be required to register pursuant to this section:

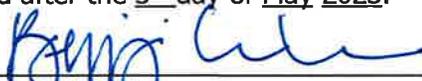
- (1) Lodging provided by hotels, motels, tourist camps, and other places subject to regulation under G.S. ch. 72.
- (2) Rentals to persons having no other place of primary residence.
- (3) Rentals for which no more than nominal consideration is given.
- (4) Rentals that are managed by a real estate broker as defined in G.S. 93A-2(a)

(c) *Penalties.* Failure to register a property within 30 days of being offered for short term residential rental shall result in a civil penalty to be paid by the operator in the amount of \$100.00. Each additional day the property is listed or operated as a short term rental without registering shall result in a civil penalty of \$50.00 per day. The town may waive such penalty if the failure to register was due to no fault of the operator. Until such time as the operator pays the penalty and registers such property, the operator may not continue to offer such property for short term residential rental.

PART II. That **Section 10.16, Required Parking by Use, Table 10-2** be amended as follows:

Table 10-2: Required Parking by Use		
Use Category/Class	Use Type	Required Parking
Residential	Short term rental, partial house	One additional parking space beyond the minimum requirement for single family dwelling.
Residential	Short term rental, whole house	No additional parking beyond the minimum requirement for single family dwelling.

PART III. 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 3rd day of May 2023.


 Benjamin Cahoon, Mayor

ATTEST:

 Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

 John Leidy, Town Attorney



Date adopted: May 3, 2023
 Motion to adopt by Commissioner _____
 Motion seconded by Commissioner _____
 Vote: _____ AYES _____ NAYS