



**AN ORDINANCE AMENDING THE TOWN CODE AND UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO THE DISCHARGE OF STORMWATER, POOL WATER, HOT TUB WATER AND DE-WATERING EFFLUENT**

**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;

**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**, staff is requesting, in conjunction with the Septic Health Advisory Committee, that the Planning Board and Board of Commissioners consider amendments to Section 11.10 of the UDO as it pertains to dewatering activities.

**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 11.10, Discharge of Stormwater, Pool Water, Hot Tub Water, and De-Watering Effluent**, be amended as follows:

***Section 11.10 - Discharge of Stormwater, Pool Water, Hot Tub Water, and De-Watering Effluent.***

***11.10.1.*** *It shall be prohibited to discharge or direct water onto adjoining properties ~~without appropriate easements or agreements from any source under the control of the owner of the premise~~, to include retained stormwater runoff, swimming pools, hot tubs, heating and air conditioning systems, or groundwater from de-watering activities.*

***11.10.2.*** *Discharge of retained stormwater or water from other sources into the Town right-of-way is allowable only with the written permission of the Town Manager, Public Works Director, ~~or~~ Town Engineer, or their designee.*

***11.10.3.*** *Temporary discharge of retained stormwater or water from other sources into the NCDOT right-of-way is allowable only with permission of NCDOT and a properly executed NCDOT encroachment agreement. Upon a determination that this section is being violated, the Stormwater Administrator, or their designee, may immediately issue a notice of violation and civil citation without need for a warning citation under Section 1.10, Violation of UDO Regulations or Town Code 1-6. Upon receipt of the notice of violation, the violator shall immediately cease and desist the activity which is in violation of this section. In the event that a violation imminently affects public safety, health or welfare, the Town may take action to abate the violation in a manner which appropriately balances the need for public safety with the need for due process of law.*

PART II. 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 5<sup>th</sup> day of July 2023.

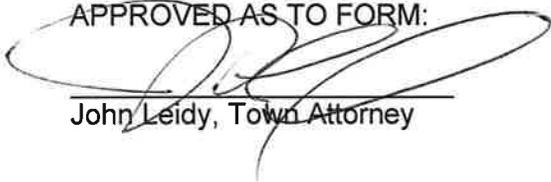
  
\_\_\_\_\_  
Benjamin Cahoon, Mayor  
Town of Nags Head

ATTEST:

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



APPROVED AS TO FORM:

  
\_\_\_\_\_  
John Leidy, Town Attorney

Date adopted: July 5, 2023

Motion to adopt by Commissioner \_\_\_\_\_

Motion seconded by Commissioner \_\_\_\_\_

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS

## APPENDIX A

### SECTION 3.5.4. ACTION BY THE BOARD OF COMMISSIONERS

Pursuant to Section 3.5.4.2. of the UDO, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

Pursuant to Section 3.5.4.5. of the UDO, prior to voting to adopt or reject the proposed text amendment, the Board should adopt a statement approving the amendment and describing the amendment's consistency with the Town's adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, a statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, or a statement approving the amendment and containing at least all of the following:

- A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.
- An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.
- Why the action was reasonable and in the public interest.