



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

**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 a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 48 of the Town's Code of Ordinances (the "Town Code"); and

**WHEREAS**, pursuant to N.C.G.S. § 160A-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

**WHEREAS**, A text amendment was initiated by an applicant to allow for a new water dependent use within the commercial-outdoor recreational overlay district, Airboat Rental Passenger Operation;

**WHEREAS**, the 2010 Land Use Plan states that the overlay district was established to accommodate the ever-growing commercial recreational development requests to the Town and that it shall be the policy of the Town to periodically review the adequacy of these regulations to make the necessary modifications when public health, safety and welfare issues arise;

**WHEREAS**, The 2010 Land Use Plan states the Town shall not increase the number of rental Personal Watercraft (PWC) Units allowed to be rented at each site;

**WHEREAS**, the Town further finds that in accordance with the findings above it 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 Zoning Ordinance and Town Code of Ordinances 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 ellipses ("...") shall remain as they currently exist within the Town Code.

**ARTICLE III. Amendment of Zoning Ordinance.**

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

PART I. That Section **48-7, Definitions of Specific Words and Terms**, be amended as follows:

*Airboat rental passenger operation* means a watercraft using an engine powering an airplane-type propeller used to transport passengers over the surface of the water. ~~Since August 2, 1995, no such use has been allowed in this jurisdiction. Any such use legally existing on that date became a nonconforming use.~~

PART II. That **Section 48-445, Commercial Outdoor Recreational Uses Overlay Zoning District** be amended to add a conditional use as follows:

- (d) Conditional Commercial-Outdoor Recreational Uses:  
(1) The following commercial-outdoor recreational uses are allowed as conditional uses in only the commercial-outdoor recreational uses overlay district:

f. Airboat Rental Passenger Operation.

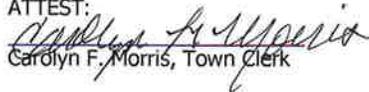
1. All operations must meet all requirements of Town Code Chapter 16, Article III, Noise.
2. All airboats must meet all requirements of Town Code Chapter 4, Article VI, Commercial-Outdoor Recreation Uses, Mufflers. The exhaust of every engine used on any airboat operated must use an automotive-style factory muffler, underwater exhaust, or other manufactured device capable of adequately muffling the sound of the engine exhaust. The use of cutouts or flex pipe as the sole source of muffling is prohibited.
3. Hours of operation shall only be from sunrise to sunset.
4. All airboats must idle or operate at no-wake speed for a minimum 900 ft. from all Town shorelines before accelerating to cruising speed or any speed that causes the hull to elevate from the surface of the water.
5. Airboats shall not enter into or pass/drive over marsh grasses.
6. Only two (2) airboats shall be allowed in the Commercial-Outdoor Recreation Overlay District.
7. The airboat operator must meet all state & federal guidelines for operating a vessel, and must have a minimum of 200 documented hours of operation time with a Department of Interior (DOI) approved training program and certification.
8. The operator must obtain all required State and Federal permits as necessary (Cape Hatteras National Seashore) dependent upon the route.

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 **3<sup>rd</sup>** day of **June 2015** ~~until and shall sunset on June 3, 2016~~ when this ordinance and the amendments to Town Code Sections 48-7 and 48-445 provided by this ordinance shall expire.



Robert C. Edwards, Mayor  
Town of Nags Head

ATTEST:

  
Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: Second Reading June 3, 2015

Motion to adopt by Commissioner Comr. Ratzenberger  
Motion seconded by Commissioner Comr. Cahoon  
Vote: 4 AYES 1 NAYS

AYES – Mayor Edwards, Mayor Pro Tem Walters, Comr. Ratzenberger, and Comr. Cahoon

NAYS – Comr. Demers