



**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 flood ordinance. The Town has codified the same as Chapter 48 of the Town's Code of Ordinances (the "Town Code"); and Chapter 22 of the Town's Code of Ordinances (Floods).

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, ordinance text amendments have been drafted by Planning Staff and initiated by the Planning Board as relates to free of obstruction, enclosures, and height; and

WHEREAS, the Town finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest; and

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 Chapter 22- Floods and Chapter 48 Floods 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 Chapter 22 Floods and Chapter 48 - Zoning, be amended as follows:

Chapter 20 Floods Article II. – Flood Damage Prevention

Sec. 22-32. - Definitions.

Free of Obstruction- means a the-required-space below the lowest floor of an elevated structure, located in a coastal high hazard area or VE-zone, that must be open and designed to be free and clear to allow floodwaters to flow freely beneath the structure. The space below the lowest floor that is unobstructed shall be a minimum vertical distance of eighteen (18) inches measured from the bottom of the lowest horizontal structural member of the lowest floor to the highest finished grade directly beneath the structure. Breakaway walls cannot be utilized to meet the free of obstruction requirement.

Lowest horizontal structural member means the lowest beam, joist, or other horizontal member that supports the building.

Sec. 22-35. - Provisions for flood hazard reduction.

"(b) Specific standards. In all special flood hazard areas where base flood elevation data has been provided as set forth in subsection 22-33(b), the following provisions, in addition to subsection 22-35(a) are required:

- (5) Elevated buildings. Fully enclosed areas of new construction and substantially improved structures, which are below the regulatory flood protection elevation:

- a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - b. Shall be constructed entirely of flood resistant materials, up to the regulatory flood protection elevation;
 - c. Shall, in zones AE, not exceed 300 "square feet in area" below the reference level with the exception of crawl space construction, and shall also include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;
- (7) Accessory structure. When accessory structures (sheds, detached garages, etc.) are to be placed in the floodplain, the following criteria shall be met:
- a. Any portion of an accessory structure that has the floor located below the regulatory flood protection elevation shall not be used for human habitation, (including working, sleeping, living, cooking or restroom areas).
 - b. Any portion of an accessory structure that has the floor located below the regulatory flood protection elevation shall not be temperature-controlled.
 - c. Any portion of an accessory structure located below the regulatory flood protection elevation shall not exceed 300 "square feet in area."
- (c) Coastal high hazard areas (zones VE).** "Coastal high hazard areas" are special flood hazard areas established in subsection 22-33(b), and designated as zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, in addition to meeting all requirements of this article the following provisions shall apply:
- (1) All new construction and substantial improvements shall:
 - a. Be located landward of the reach of mean high tide;
 - b. Be located landward of the first line of stable natural vegetation; and
 - c. Comply with all applicable CAMA setback requirements.
 - (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in coastal high hazard areas to satisfy the regulatory flood protection elevation requirements.
 - (3) All new construction and substantial improvements", including properties with elevations above the regulatory flood protection elevation, "shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of flood waters, with the following exceptions: Open wood latticework or insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with subsection 22-35(b)(5)d. Design plans shall be submitted in accordance with subsection 22-34(c)(6)c.
 - (4) All new construction and substantial improvements shall be securely anchored" to an open "pile or column foundation"s to allow floodwaters and waves to pass beneath the structure. "All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components."

Chapter 48- Zoning, Article 1- In General, Section 48-7. - Definitions of specific words and terms.

"Height means the vertical distance measured from the tallest part of a building to the lowest ground elevation at the base of the building (finished grade; typically, the top elevation of the driveway or ground floor concrete slab). Height may be measured using the average finished grade at the four corners of the building where fill has not been used to elevate the building.

In any AE or VE "special flood hazard area, height will be measured from the regulatory flood protection elevation or finished grade, whichever is higher."

In coastal high hazard areas or VE zones height shall be measured from regulatory flood protection elevation or in cases where the finished grade elevations are above regulatory flood protection elevation, height shall be measured 18 inches above the highest finished grade directly beneath the structure.

Sec. 48-447. - Soundside Residential Dwelling Overlay District

"(f) *Building design.* In addition to the applicable standards of section 48-370, residential design standards, the following standards are encouraged for all single-family dwellings:

- (1) Residential structures that have a ground floor elevation that is less than four feet above the required base flood elevation (BFE) should be piling supported. Ground floor enclosures of a piling supported residential structure should not exceed 300 square feet of enclosed storage."

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 3rd day of February 2016.


Robert C. Edwards, Mayor

ATTEST:


Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: February 3, 2016

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: AYES NAYS