



**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, a zoning ordinance text amendment was drafted by Planning Staff and initiated by the Board of Commissioners as relates to exempting public boardwalks and walkways on private property from lot coverage and setback requirements; and

WHEREAS, these facilities benefit the general public and it is in the Town's best interest to encourage their construction; and

WHEREAS, private property owners would be less likely to grant easements for these public facilities if they were counted against total lot coverage; 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 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 **Sec. 48-90. – Exclusion from lot coverage calculation**, be amended with the following language:

- (a) When access easements are provided in accordance with section 38-10 and section 38-65, a maximum of 20 feet for two-way and 14 feet for one-way improved access surface areas shall be excluded from individual lot coverage calculations. This exemption shall also apply to existing legal lots of record meeting the lot frontage requirements of section 38-10 and further provided that the requirements of section 38-65 are met and where such access has been approved by the planning and development director and recorded on a subdivision plat in accordance with this chapter. This exception shall be applicable only for single-family and duplex uses for access only and shall not be used for the parking of vehicles and shall be noted in the covenants and deed restrictions required by section 38-65.
- (b) Portions of built-in railing benches constructed in accordance with Chapter 48, Appendix A, Town of Nags Head Residential Design Manual extending beyond a building footprint shall be excluded from individual lot coverage calculations.

- (c) When an existing or proposed commercial parking lot is designed and or modified to allow two-way vehicular traffic and pedestrian flow between adjoining commercial properties in commercial zoning districts the following exclusions of lot coverage shall apply provided the lot coverage exclusions of this section shall not apply to lot coverage within cross-easements located within an estuarine AEC:
 - (1) Up to 220 square feet of the lot coverage within the shared vehicular travel area included within a recorded cross-easement may be excluded from the lot coverage calculation of each lot for the purpose of constructing the shared vehicular travel access.
 - (2) Up to 75 square feet of lot coverage for handicap accessible, pedestrian sidewalk area within a shared cross-easement may be excluded from the lot coverage calculation of each lot for the purpose of constructing the shared pedestrian sidewalk.
- (d) Up to a maximum of 200 square feet of lot coverage if one or more bicycle racks are located on improved surfaces in compliance with the requirements of subsection 48-165(e).
- (e) Municipally owned walkways, boardwalks, multi-use paths and sidewalks are exempt from the lot coverage requirements of this chapter.

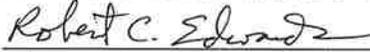
PART II. That Section **Sec. 48-78. – Yard requirements**, be amended with the following language:

Unless otherwise provided in this chapter, no principal structure or principal use shall be located within the front, side or rear yards (setback areas). Other accessory structures, including pools and pool surrounds, may be located only in rear or side yards and may be located no closer than five feet to any property line, except as provided for walls and fences in section 48-80 and replacement of residential HVAC stands as provided in section 48-7, definition of "yard, side". Municipally owned walkways, boardwalks, multi-use paths and sidewalks are exempt from the minimum yard requirements of this chapter.

PART III. Severability Clause.

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this sign ordinance is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the sign ordinance.

PART IV. 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 6th day of July 2016.


Robert C. Edwards, Mayor
Town of Nags Head

ATTEST:


Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: **July 6, 2016**

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

