



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA  
TO PROHIBIT SMOKING AND THE USE OF OTHER TOBACCO PRODUCTS IN  
OR AROUND TOWN OF NAGS HEAD BUILDINGS AND GROUNDS**

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), tobacco use and secondhand smoke exposure are leading preventable causes of illness and premature death in North Carolina and the nation; and

WHEREAS, on January 2, 2010, "An Act To Prohibit Smoking In Certain Public Places And Certain Places Of Employment", North Carolina Session Law 2009-27, became effective, authorizing local governments to adopt and enforce ordinances "that are more restrictive than State law and that apply in local government buildings, on local government grounds, in local vehicles, or in public places;" and

WHEREAS, in 2006, a report issued by the United States Surgeon General stated that scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke, and that secondhand smoke has been proven to cause cancer, heart disease, and asthma attacks in both smokers and nonsmokers; and

WHEREAS, municipalities are granted broad police power authority to protect the health, safety, and welfare of municipal employees and the general public by N.C.G.S. 160A-174; and

WHEREAS, according to N.C.G.S. 130A-498 Local governments may restrict smoking in public places; and

WHEREAS, no smoking or other use of tobacco products is permitted at any time in any part of the building, property, or vehicles owned, leased or rented or by any employee while performing work duties; and

WHEREAS, the CDC advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and

WHEREAS, in air quality tests, concentrations of secondhand smoke in vehicles have been found to be far greater than in any other micro-environments tested, including smoke-free homes, smokers' homes, smoke-filled bars, and outdoor air – even with a vehicle's windows open and its fan set on high; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity (such as those sitting beside someone on a park bench or children accompanying a smoking parent or guardian); and

WHEREAS, tobacco is a recognized carcinogen in humans, and health risks associated with the use of tobacco products include myocardial infarction, stroke, and adverse reproductive outcomes; and

WHEREAS, the Town of Nags Head is committed to providing a safe and healthy workplace in all Town facilities for its employees and a safe and healthy environment for the visiting public; and

WHEREAS, the Town of Nags Head wishes to minimize the harmful effects of tobacco use and eliminate secondhand smoke exposure for its employees and the public in and on those buildings and vehicles controlled by the Town; and

WHEREAS, this Board finds and declares that, to protect the public health and welfare, it is in the best interest of the citizens of the town of Nags Head to adopt an ordinance prohibiting smoking and the use of tobacco products in and around certain municipal buildings and all vehicles.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Code of Ordinances of the Town of Nags Head is hereby amended by adding *Sec. 26-16. Use of tobacco* as follows:

Section 1. Authority.

This ordinance is enacted pursuant to G.S. 130A-498 and 160A-174(a).

Section 2. Definitions

The following definitions are applicable to this ordinance.

- (a) Town Building. – A building owned, leased as lessor, or the area leased as lessee and occupied by the Town.
- (b) Town Grounds. – The non built upon area of Town owned property.
- (c) Town Vehicle. – A passenger-carrying vehicle owned, leased, or otherwise controlled by the Town and assigned permanently or temporarily to its employees, agencies, institutions, or facilities for official Town business.
- (d) Smoking. – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or the use of any other lighted tobacco product.
- (e) Tobacco Product. - Any product containing, derived, or made from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component part or accessory of a tobacco product, including but not limited to cigarettes; cigars; electronic cigarettes; electronic hookahs; electronic pipes; vaping products; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rub and other smoking tobacco; snuff; snuff flour; Cavendish; plug and twist tobacco; and other kinds and forms of tobacco. A tobacco product excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, when such product is being marketed and sold solely for such an approved purpose.

Section 3. Areas in Which Smoking and the Use of Tobacco Products are Prohibited

- (a) Smoking and the use of tobacco products and including the use of smokeless tobacco products are prohibited:
  - (1) In any Town Building or on Town Grounds as herein defined,
  - (2) In any Town Vehicle as herein defined;
  - (3) On any Town Grounds owned solely by the Town except the Town's beach accesses.

Section 4. Implementation Requirements

- (a) The Town shall post signs that meet all the requirements in Section 5 of this ordinance.
- (b) The Town shall remove all ashtrays and other smoking receptacles from Town Buildings

Section 5. Signage

- (a) Signs will include an express reference to, "smoke free" or "tobacco free" and may include the international "No Smoking and Smokeless Tobacco" symbol (which consists of a pictorial representation of a burning cigarette and smokeless tobacco product enclosed in a red circle with a red bar across it),
- (b) Signs will be posted at each Town Building entrance and on Town Grounds at a height and location easily seen,
- (c) Signs will be in legible font type.
- (d) Persons in charge of Town Vehicles or his or her designee shall post signs in the Town Vehicles explaining the prohibition. The signs must be displayed in areas where passengers will be

able to see the signs but the placement of the signs must not interfere with the safe operations of the Town Vehicle.

(e) Nothing in this policy prohibits a person in charge of Town Buildings, Town Grounds and Town Vehicles from posting additional signs in areas where smoking is prohibited. For example, signs may be posted in other areas where people are likely to want to use tobacco products, such as in bathrooms or in dining areas.

Section 6. Enforcement and Penalties

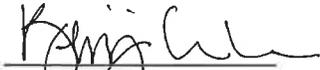
*Penalty for Violation.* Following oral or written notice by the person in charge of an area described in Section 3, or his or her designee, failure to cease smoking or using tobacco products constitutes an infraction punishable by a civil penalty of not more than fifty dollars (\$50.00). A civil penalty may be issued by a sworn law enforcement officer.

Section 7. Severability; Conflict of Laws.

If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance that can be given separate effect and to that end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 8. Effective Date.

Adopted this 6<sup>th</sup> day of December 2017.

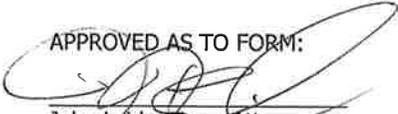
  
Benjamin Cahoon, Mayor  
Town of Nags Head

ATTEST:

  
Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

  
John Leidy, Town Attorney

Date adopted: December 6, 2017

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

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

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