



**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 add "Community Garden" as a permissible use within the Town of Nags Head; and

**WHEREAS**, the Town of Nags Head 2010 Land Use Plan states that the Town shall support the policy of maintaining the Town's self-sufficiency by providing adequate services and amenities for residents and visitors; and

**WHEREAS**, the Town of Nags Head 2010 Land Use Plan and Code of Ordinances, through policy statements and regulations, places value in mixed commercial-residential opportunities. Furthermore, the Town finds that the proposed amendment is consistent with the Land Use Plan and the Town's desired development patterns and uses; 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 **48-7, Definitions of Specific Words and Terms**, be amended as follows:

Community Garden means a use in which land is managed by a group of individuals to grow food or ornamental crops such as flowers, for donation or for use by those cultivating the land in their own households. Community Gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

PART II. That **Section 48-379, Community Gardens**, be added as follows:

Community Gardens, as a principal or accessory use, are permitted as a conditional use within all zoning districts except the SED-80, Special Environmental District and Ocean and Sound Water Overlay District, provided the following requirements are met:

- (a) Minimum Lot Size. Community Gardens shall be located on sites with a minimum lot area of one (1) acre.
- (b) Setbacks. Whether proposed as an accessory use or as a principal use, the boundaries of the community garden and all permissible accessory structures shall meet the minimum required setbacks of the district in which it is proposed. In no instance shall the community garden or any associated improvements be located less than 10 feet from any property line.
- (c) Lot Coverage. Lot coverage shall not exceed the maximum allowable lot coverage for the district in which it is proposed.
- (d) Stormwater, Fill and Runoff Management. Development of a community garden shall comply with all requirements of Town Code Chapter 34. Additionally, the site shall be designed and maintained so that water and fertilizer will not drain onto adjacent properties.
- (e) Permitted Structures. Accessory structures such as storage sheds for gardening tools and supplies, greenhouses, hoop houses and cold frame structures to extend the growing season may be allowed in a community garden pursuant to the definitional requirements within Town Code Section 48-7 of *Structure, Accessory and Structure, Use*.
- (f) Fencing. Fencing is not required but may be permitted if the gardener chooses to do so. Fencing shall not be greater than four (4) feet in height and kept in good condition.
- (g) Parking. Ten (10) parking spaces are required for the first acre; one additional parking space shall be provided for every additional acre of community garden use.
- (h) Hours of Operation. Hours of operation shall be limited to the hours between sunrise and sunset.
- (i) Signage. Signage shall be limited to a single, non-illuminated, flat sign no larger than four (4) square feet.
- (j) Water Usage. Water efficient irrigation techniques such as drip irrigation and timers to control watering times are encouraged. All hoses shall be equipped with a trigger nozzle. Mulching of plant areas is encouraged to retain plant moisture.
- (k) Composting. Composting may be performed onsite within a composting container subject to the all of the following:
  - 1. Composted materials shall be only those materials generated onsite or contributed by active members of the community garden.
  - 2. Composting containers shall be located a minimum of ten (10) feet from all property lines.
  - 3. The permit holder for the community garden shall have a plan to reasonably control odor from any composting areas.
- (l) Trash/Recycling Receptacles. Trash and recycling receptacles shall be provided onsite for the proper disposal of refuse by the property owner. The containers shall be screened from adjacent properties by a four (4) foot high solid fence. Refuse shall be removed from the site regularly so that the receptacle area and the lot are kept free from litter.
- (m) Screening. Trash storage areas, mechanical equipment, compost and mulch piles and similar areas shall be screened so they are not visible from the street or from adjacent properties.
- (n) Lighting. Low level security lighting not to exceed one average maintained footcandle may be permitted on or around permitted structures in accordance with Town Code Section 48-328(c).

- (o) Sale of Produce and Plants. On-site sales of produce, plants or any other items are prohibited.
- (p) Prohibited plants. Planting illegal or invasive plants shall be prohibited. For additional information regarding invasive plant species, applicants should refer to literature published by the North Carolina Invasive Plant Council.

PART III. That **Sec. 48-402(c), Conditional Uses within the R-1, Low Density Residential Zoning District**, be amended as follows:

(7) Community Gardens subject to the requirements of Town Code Section 48-379.

PART IV. That **Sec. 48-403(c), Conditional Uses within the R-2, Medium Density Residential Zoning District**, be amended as follows:

(12) Community Gardens subject to the requirements of Town Code Section 48-379.

PART V. That **Sec. 48-404(c), Conditional Uses within the R-3, High Density Residential Zoning District**, be amended as follows:

(11) Community Gardens subject to the requirements of Town Code Section 48-379.

PART VI. That **Sec. 48-405(c), Conditional Uses within the CR, Commercial Residential Zoning District**, be amended as follows:

(9) Community Gardens subject to the requirements of Town Code Section 48-379.

PART VII. That **Sec. 48-406(c), Conditional Uses within the C-1, Neighborhood Commercial District**, be amended as follows:

(3) Community Gardens subject to the requirements of Town Code Section 48-379.

PART VIII. That **Sec. 48-407(c), Conditional Uses within the C-2, General Commercial Zoning District**, be amended as follows:

(34) Community Gardens subject to the requirements of Town Code Section 48-379.

PART IX. That **Sec. 48-408(c), Conditional Uses within the C-3, Commercial Services Zoning District**, be amended as follows:

(10) Community Gardens subject to the requirements of Town Code Section 48-379.

PART X. That **Sec. 48-409(c), Conditional Uses within the C-4, Village Commercial Zoning District**, be amended as follows:

(c) Conditional Uses. There are no conditional uses in the C-4 District. The following uses shall be permitted subject to the requirements of this C-4 district and additional regulations and requirements imposed by the Board of Commissioners as provided in Article XIX of this chapter:

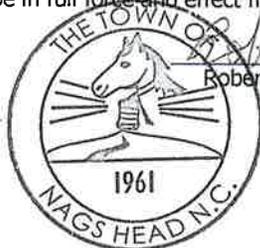
(1) Community Gardens subject to the requirements of Town Code Section 48-379.

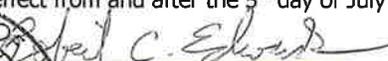
PART XI. That **Sec. 48-441(c), Conditional Uses within the SPD-20, Special Planned Development Zoning District**, be amended as follows:

(6) Community Gardens subject to the requirements of Town Code Section 48-379.

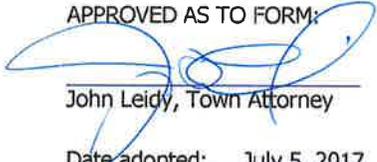
PART XII. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 5<sup>th</sup> day of July 2017.

ATTEST:  
  
Carolyn F. Morris, Town Clerk



  
Robert C. Edwards, Mayor

APPROVED AS TO FORM:



John Leidy, Town Attorney

Date adopted: July 5, 2017

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

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

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