



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 Metaphysical Wellness Services as a Permitted Use within the C-2, General Commercial Zoning District.

WHEREAS, the Town further finds that in accordance with the findings above it is not in the interest of and 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:

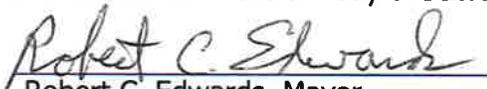
PART I. That Section **48-407(c)(33), Conditional Uses within the C-2, General Commercial District**, be amended as follows:

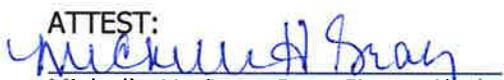
(r) Metaphysical Wellness Services for which there is no professional licensing recognized by the State of North Carolina including hypnosis, past life regression, energy healing practices, phrenology, astrology, and intuitive readings such as psychic, palm, tarot and oracle cards, provided that the following conditions are met:

- (1) Every person desiring to operate a business containing the above uses shall first apply for and obtain a permit from the Chief of Police, or his/her designee to conduct such activity. The permit application shall include but not be limited to, the following:
 - (i) Name, alias or nicknames, resident and business address, phone number, place and date of birth, Social Security Number, race, sex, age, height, weight, hair color and eye color.
 - (ii) Written authorization to conduct a background investigation of the applicant, including fingerprints and personal descriptive information for the purpose of obtaining criminal history record information, the costs of which shall be borne by the applicant.
 - (iii) Written declaration, dated and signed by the applicant, certifying that the information contained in the application is true and correct.
- (2) Standards for permit review, issuance and revocation:

- (i) The Chief of Police, or his/her designee, shall conduct an independent investigation and determine whether the statements contained in the application are true.
- (ii) The applicant shall not be issued a permit if the investigation or the information furnished in compliance with this article shows that the applicant has been convicted within the last ten years from the date of the application of a felony or any other crime materially affecting the applicant's ability to conduct the permitted activity including a crime involving moral turpitude, or has been denied a permit or has had a permit revoked under any statute or ordinance similar in substance to the provisions of this article.
- (iii) The Chief of Police, or his designee, may revoke or suspend any permit issued pursuant to this article (i) for fraud, misrepresentation or any false statements contained in the application; (ii) upon conviction of the applicant for any felony or misdemeanor involving moral turpitude after the permit is issued; (iii) for failure to comply with the provisions of this article; or (iv) if the applicant's business fails to comply with applicable town, county, or state laws or regulations.
- (iv) If the Chief of Police, or his designee, revokes a permit, he shall notify the permittee in writing of such action, the reasons for the revocation, and the permittee's right to request a hearing. To receive a hearing, the permittee must make a written hearing request which must be received by the Chief of Police, or his designee, within ten days of the date of the revocation notice. If a timely hearing request is not received by the Chief of Police, or his designee, the decision shall be final and the permittee's right to any hearing regarding the revocation shall be waived. If a hearing is properly requested, it shall be held within ten days from receipt of the hearing request. The hearing shall be presided over by the chief of police or his designee. The permittee shall have the right to present evidence including witnesses and/or documents, to examine the evidence presented against the permittee, and to present argument or to have an attorney do so. Within a reasonable time after the hearing, the Chief of Police, or his designee, shall render his decision. The permittee must discontinue operation of its business when the decision to revoke the permit becomes final.
- (v) The applicant shall have the right to appeal any decision of the Chief of Police to the Board of Commissioners.

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 7th day of **June 2017**.


Robert C. Edwards, Mayor
Town of Nags Head

ATTEST:

Michelle H. Gray, Dep. Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: June 7, 2017

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

