



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

**ARTICLE I. Purpose(s) and Authority.**

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town of Nags Head (the "Town") may 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 may define and abate nuisances; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-304 the Town may enact and amend ordinances regulating the operation of vehicles for hire within its jurisdiction; and

WHEREAS, the Town finds it is in the interest of the public's health, safety, morals and general welfare that the Town's Code of Ordinances be amended as stated below.

**ARTICLE II. Construction.**

For purposes of this Ordinance, 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 a "..." shall remain as they currently exist within the Town Code.

**ARTICLE III. Amendment of Town Code of Ordinances.**

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Town's Code of Ordinances shall be amended as follows:

**PART I.** That **Chapter 46 VEHICLES FOR HIRE** be replaced in its entirety with the following:

**ARTICLE I. GENERALLY**

**Sec. 46-1. Intent of chapter.**

The purpose of this chapter is to provide a mechanism that clearly delineates the effective and efficient regulation of vehicles for hire within the town. It is the intent of the town to focus on the regulation of safety, reliability, economy and convenience for the public who will utilize vehicle for hire services. The concern for the town is one of public safety and how the taxicab industry will operate in a manner that provides protection for individuals who use the services of vehicles for hire in the town.

**Sec. 46-2. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Certificate of public convenience and necessity* means the certificate of public convenience and necessity, hereafter referred to as "certificate," is issued by the town upon approval of an application from a business or individual owner providing vehicle for hire service. This certificate is required before a medallion may be issued for placement on any vehicle operating as a vehicle for hire within the town.

*Cruising* means the movement of a vehicle for hire over public streets or public vehicular areas in search of passengers or for the purpose of attracting passengers. No passenger vehicle for hire, other than a taxicab, shall engage in cruising or be operated on call or demand.

Exclusive-ride service means a taxi service in which the first passenger or party requests exclusive use of the taxicab.

"For hire" business means (as defined in G.S. 20-86) any person, firm or corporation engaged in the business of transporting persons or property for compensation.

Limousine means any "for hire" chauffeur-driven vehicle that meets the manufacturer's specifications for a luxury limousine, that provides transportation to passengers for compensation by prearrangement, does not accept passengers indiscriminately between points or along highways, Limousine service compensation may not be computed by means of a meter. Limousines must carry an appropriate registration plate to distinguish them from taxicabs and other vehicles for hire. Every limousine shall have a minimum of four seats or one continuous sofa-styled seating area located behind the operator of the vehicle. No limousine shall engage in cruising or be operated on call or demand.

Manifest means a daily record, prepared by the driver, of all trips made by vehicles for hire which he operates, showing the time and place of origin and destination of each trip and the amount of fare or fee.

Medallion means a nontransferable numbered insignia provided by the town issued to a particular vehicle for hire that has a valid operating certificate and permit associated with it. Only after inspection of the vehicle will a medallion be assigned.

On call or on demand means the availability of vehicle for hire service in response to public need throughout a 24-hour period.

Permit means a permit issued by the town to any person who drives as an owner or employee of a vehicle for hire service in a certificate-approved and medallion assigned vehicle for hire within the town.

Rate card means the card issued by the town for display in each taxicab for which an operating permit and medallion has been issued, describing the schedule of fares charged by such taxicab.

Reciprocity means a mutual exchange of special privileges between two entities that is advantageous to both. Hereafter, the two entities to benefit from this relationship are the town and any other Dare County municipality adopting a substantially similar taxicab ordinance, as well as those approved taxi services that transport passengers between the two municipalities.

Shared-ride service means a taxi service in which two or more persons, with either different origins or with different destinations, or both, occupy a taxicab at one time.

Taxicab means any vehicle for hire, with a maximum capacity of nine or fewer passengers and driver which is operated within the town in a manner that is on call or on demand and/or via cruising. This definition shall exclude common carriers regulated pursuant to G.S. ch. 62, public utilities.

Taximeter means a mechanical device, approved by the town, which is installed in a taxicab for the purpose of computing the fare for a trip upon the basis distance traveled, waiting time, or both.

Vehicle for hire means any vehicle used in a for hire business, including but not limited to taxicabs and limousines. Any vehicle for hire operating within the town shall be subject to the provisions of this chapter.

### **Sec. 46-3. Insurance requirement.**

In accordance with G.S. 20-280, it is the responsibility of each owner to insure each vehicle for hire for liability and property damage insurance. The town requires that this insurance shall be in effect in the amounts of not less than \$100,000.00 for each person, \$200,000.00 for each occurrence, and \$25,000.00 property damage.

**Sec. 46-4. General vehicle requirements.**

In addition to all other applicable regulations in this article, all vehicles for hire shall be equipped and maintained in satisfactory condition so as to comply with the state statutes, and the provisions of this Code, and other requirements shall be:

- (1) The vehicle must meet the state's vehicle safety inspection requirements at all times.
- (2) The vehicle shall hold not less than four passengers and will be of a passenger body style that is fully enclosed.
- (3) The vehicle will have at least four doors, two leading to the passenger's compartment and two leading into the driver's compartment and so constructed that they may be opened from the inside and outside without delay.
- (4) The vehicle will have all openings (windows and doors) in proper working condition.
- (5) The vehicle will be equipped with a working heater to heat the interior sufficiently in the winter and an air conditioner sufficient to cool the interior in hot weather.
- (6) The vehicle will have all windshields and side and rear glasses clear and free of all cracks and clear of dirt or obstructions to clear view.
- (7) The vehicle will have the front and rear bumpers and all attachments of the original manufacturer's design in its proper place and in proper repair.
- (8) The vehicle headlights and rear lights shall be in good working condition as installed by the original manufacturer.
- (9) The vehicle shall have removable floor mats of rubber or other nonabsorbent and washable material.
- (10) The vehicle shall have the exterior and the interior cleaned on a regular basis.
- (11) The vehicle will be equipped with all safety devices in proper working order as designed by the original equipment manufacturer and any other items that may be required for the convenience and safety of the passengers as required by the town, by the state or by applicable laws and regulations of the United States.
- (12) The vehicle must be equipped with a seat belt for the driver and each passenger.
- (13) The vehicle shall be operated in a sanitary and clean condition. The certificate holder shall keep the body of the taxicab, both interior and exterior, in a safe condition at all times. The vehicle's general appearance shall be kept as close as possible to the manufacturer's original appearance and repair with respect to sheet metal and finish of the vehicle's normal wear and tear.
- (14) Vehicles being serviced by a dispatching office will be equipped with a two-way communication device in order to receive direct communication with the dispatching office. Example: Two-way radio system or cellular phone system. Telephone pager system is not an approved two-way communication device.

**Sec. 46-5. Inspections.**

(a) Certificate holders shall bring in each vehicle for hire, with affixed medallion on the window, under three years old on the day specified by the director of public safety in April of each year to be inspected by the town. Vehicles for hire that are three years and older shall be inspected twice a year. The certificate holder or designated driver must bring the older vehicles for hire to the town on the days designated by the director of public safety in April and October of each year.

(b) Any vehicle for hire that is wrecked, damaged or deemed unsafe for carrying passengers shall not be allowed to carry passengers until the certificate holder makes the necessary repairs and alterations to ensure that public safety is not jeopardized. The certificate holder will be required to

notify the town, police division of such situations and to have the affected vehicle for hire inspected by the town before returning the vehicle for hire to service.

**Sec. 46-6. Maximum work hours for drivers.**

It shall be unlawful for any driver of a vehicle for hire, while on duty, to drive any vehicle for hire in the town for more than 13 hours in any 24-hour period, or for a period which, when added to the time such driver may have driven a vehicle for hire in any other county, city or town, would make an aggregate of more than 13 hours in any 24-hour period. For the purposes of this section, the term "drive" shall not be limited to such time as the vehicle is in motion or such time as it is engaged by a customer, but shall include the entire time that such vehicle is available for hire.

**Sec. 46-7. Consumption of alcoholic beverages or drugs by drivers.**

It shall be unlawful for any driver of a vehicle for hire to consume, be under the influence of, or otherwise ingest by any means, any alcoholic beverage or narcotic drug or any other intoxicant of whatsoever nature while on duty.

**Sec. 46-8. Maximum number of passengers.**

The driver of a vehicle for hire shall permit no more passengers than the number of seatbelts, which are available for use within the vehicle.

**Sec. 46-9. Markings required.**

Each vehicle for hire operating under a certificate issued pursuant to this article shall have painted or by decal affixed on both sides thereof, in letters of such size and color as to be readily seen at a distance of 50 feet, words designating the vehicle as a vehicle for hire and giving the name or business name of the certificate holder.

**Sec. 46-10. Taximeter.**

Every taxicab shall be equipped with a taximeter of a size and design approved by the inspector and which conforms substantially to the following specifications:

- (1) A taximeter is a mechanical or electronic instrument or device by which the charge for hire of a taxicab is calculated either for distance traveled or for waiting time, or for both, and upon which such charges shall be indicated by means of legible figures which are electrically lighted each time the taximeter flag is thrown from the nonearning position to the earning position.
- (2) Taximeters must register upon visual counters the following items:
  - a. Amount of fare; and
  - b. Number of trips.
- (3) Each taximeter must be furnished with a tamperproof switch and system of electrical distribution so that when the taximeter flag is in the vacant or nonearning position, the vacant sign on the top of the taxicab will be lighted and when the meter flag is thrown to the earning position, the fare indicator on the taximeter will be lighted, and at the same time, a tell-tale light, located elsewhere on the taxicab, will be lighted.
- (4) Each taximeter must be driven either directly from the taxicab transmission or the speedometer-driving shaft to the taximeter head itself, using a flexible shaft and a flexible housing so connected and sealed as to be nontamperable.
- (5) No person shall use or permit to be used upon any taxicab a taximeter which is in such a condition as to operate such that the meter charges higher than five percent or less than ten percent of the correct fare.

**Sec. 46-11. Rates and fares.**

(a) Each taxicab operating under a certificate issued pursuant to this article shall have at all times prominently posted and displayed therein, on an approved rate card, so as to be visible to the passengers therein, the rates and fares for the use of such cab.

(b) The rates for taxicabs shall be as follows: \$2.00 first one-sixth of a mile; \$0.30 each additional one-sixth of a mile; \$0.30 per minute wait time after the first three minutes (\$18.00 per hour).

(c) Notwithstanding section 46-14, *Changes in rates and fares*, the director of public safety may authorize a gasoline surcharge of \$2.00 per trip for a period of time not to exceed six months upon finding that fuel prices have risen more than 30 percent in the prior six months.

(d) The rates for vehicles for hire other than taxicabs shall be available to customers prior to obligating or initiating service and shall be no more than reasonable customary rates for use of the type of vehicle for hire in question.

**Sec. 46-12. Passenger to pay lawful fares; receipt to be furnished upon request.**

(a) It shall be unlawful for any person owning, operating or controlling a vehicle for hire in the town to charge any rate for the use of the vehicle for hire exceeding the rates as set forth in section 46-11, and no person shall ride in any vehicle for hire and willfully refuse to pay the fare or fee prescribed therefor by law in the case of a taxicab or provided by the vehicle for hire service and agreed to by the customer for other vehicles for hire; provided, however, that this section is not intended to prohibit a vehicle for hire passenger from granting a gratuity to the vehicle for hire driver.

(b) When requested by a passenger, the driver in charge of the vehicle for hire shall deliver to the passenger a legible receipt showing the vehicle for hire operating permit number, the driver's permit number and the date and amount of fare paid. Refusal on the part of the driver to deliver such receipt shall constitute a defense on behalf of the passenger to a charge of violating subsection (a) of this section.

**Sec. 46-13. Manifest; driver's daily manifest to be kept; right of inspection by police and town manager.**

(a) Every driver shall maintain a daily manifest upon which shall be recorded all trips made each day, the time, place of origin and destination of each trip, the number of passengers and amount of fare or fee for each trip; manifests shall be in a form approved by the director of public safety and shall be furnished to the driver by the operating certificate holder.

(b) Every certificate permit holder shall retain and preserve, all drivers' manifests in a safe place for at least 90 days, and same shall be made available upon demand for inspection by the town police or the town manager.

**Sec. 46-14. Changes in rates and fares.**

Vehicle for hire rates and fares provided in section 46-11 shall not be changed without the approval of the town manager. Applications for permission to change rates and fares shall be filed in the same manner as applications for the certificate. The proceedings upon each application for permission to change rates and fares shall be the same as those prescribed for the issuance of the certificate.

**Sec. 46-15. Passenger rights.**

Once a passenger has engaged a taxicab, the driver shall commence transportation of that passenger immediately and shall engage in no other service prior to termination of such transportation. If prior to commencement of such transportation, another person solicits transportation by the same vehicle, such person shall not be granted transportation without the consent of the passenger who first engaged the taxicab. All other vehicles for hire shall commence transportation at the time and place agreed to by the customer and the service provider and only the customer and their guests may use the service during the time agreed upon.

**Sec. 46-16. Refusal of passengers.**

The driver of a taxicab shall not refuse to carry a person who is orderly and presents no apparent or immediate hazard to the driver by any means to include health and sanitation anywhere in the town or to any point beyond the town for the legal fare. It shall be unlawful for a driver to fail to go to a location and carry orderly passengers after the dispatching system has, at the driver's request, identified the pickup location of the passenger.

**Sec. 46-17. Conduct of company, employees, and drivers.**

(a) The driver of any vehicle for hire shall, upon the request of any passenger, provide the correct name and business address of such driver and any other information as will identify the vehicle, driver and owner thereof. The company, employees and drivers must conduct themselves in a manner that is orderly and legal at all times.

(b) It will be the responsibility of the driver and the certificate holder to cause to have delivered to the town, police division, any money or other personal property left in any vehicle for hire by any passenger who was picked up or dropped off in the town. The items will then be stored at the town, police division, for the passenger, who properly identifies such personal property, to reclaim their property. Any money or personal property left in a vehicle for hire shall be delivered to the town, police division, and a report made with the police division within 48 hours.

**Sec. 46-18. Reciprocity between areas.**

Vehicles for hire granted certificates to operate from municipalities having reciprocity agreements with the town shall be granted the right to operate within the town's limits for pickup and discharge of passengers.

**Sec. 46-19. Operation as taxicab.**

Other than vehicles for hire which meet the definition of a taxicab, vehicles for hire, including limousines, shall not operate within the town as taxicabs by engaging in cruising.

**Secs. 46-20--46-40. Reserved.**

**ARTICLE II. CERTIFICATE TO OPERATE VEHICLE FOR HIRE**

**Sec. 46-41. Required; application generally.**

(a) *Required.* No person shall engage in the business of operating a vehicle for hire within the town without a valid certificate to operate vehicle for hire issued by the town manager or issued by a town that has an approved reciprocal agreement with the town. A medallion is required to be posted on the window of each vehicle for hire having an approved certificate.

(b) *Application.* Each application for a certificate and medallion shall be on a form prescribed by the town, and shall set forth all information required by the town manager to determine whether or not the certificate applied for should be issued. Each such application shall be presented to the town and verified by the applicant under oath and shall be filed with the town clerk, who shall provide it to the town manager for processing.

(c) *Application fee.* There is hereby established a charge which shall be in an amount set out in the town fee schedule for each application for a certificate and medallion, which is for the purpose of helping to defray the expenses involved in checking the application and for services rendered by the town personnel and others in connection therewith. This charge shall be in addition to and not in lieu of any license tax or other charge imposed by this Code and shall not be refundable.

**Sec. 46-42. Hearing on application; notice and publication of hearing.**

(a) Each application for a certificate shall be considered by the town manager and either granted or denied within a reasonable time not less than twenty (20) days and not exceeding thirty (30) days after such application is filed with the town clerk. The applicant shall be notified by the town clerk by mail, at the business address set forth in the application, of the issuance or denial of a certificate.

(b) The town clerk shall, within ten (10) days of the filing of an application, post a notice of the application on the town hall bulletin board and notify all persons who, at that time, hold certificates with the town, of the filing of the application. The notice posted and provided shall set forth the date of the filing of the application, the name of the applicant, that any objections must be made in writing to the town manager within twenty (20) days of the filing date and that the town manager will grant or deny the application within a reasonable time not less than twenty (20) days and not exceeding thirty (30) days after the filing date.

**Sec. 46-43. Investigation of application for certificate.**

Before making any decision with respect to the issuance of a certificate, the town manager shall cause to be made a full and complete investigation of all facts and may, if the town manager so desires, utilize the services of the director of public safety, his designee, or any other officer or employee of the town.

**Sec. 46-44. Factors bearing upon issuance or denial of certificate.**

In determining whether to grant a certificate under this article, the town manager shall, among other things, take into consideration the following factors:

- (1) Whether or not the issuance of a certificate will be detrimental in anyway to public safety and availability of vehicle for hire service within the town.
- (2) The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible and satisfactory.
- (3) The number and condition of vehicles for hire to be operated.
- (4) The schedule of the proposed rates and fares to be charged.
- (5) The experience of the applicant in the vehicle for hire business.
- (6) Any other factors allowed to be considered by N.C.G.S. 160A-304.
- (7) Such other relative facts as may be deemed necessary and advisable.

**Sec. 46-45. Burden of proof.**

The burden of proof under this article shall be upon the applicant to establish to the town manager all facts necessary for the town manager to grant the applicant a certificate for the vehicles for hire specified in the application.

**Sec. 46-46. Issuance; terms and condition; grounds for denial.**

The town manager shall grant a certificate when the applicant therefor has established to the town manager's satisfaction that the that the requirements of his article are complied with, and that the factors set out in section 46-44, favor the issuance of a certificate. Otherwise, the town manager shall deny a certificate to the applicant. Each certificate granted by the town manager may contain such terms and conditions, as the town manager may consider desirable to impose for the public welfare, safety, convenience or necessity.

**Sec. 46-47. Revocation.**

(a) The town manager may, at any time after providing a certificate holder an opportunity to be heard, revoke any certificate issued by authority of this chapter for any one or more of the following causes:

- (1) Failure to operate the vehicle for hire specified in the certificate in such manner as to serve the public adequately, safely and efficiently.
- (2) Failure to carry liability insurance as required by this article and in accordance with section 46-3.
- (3) Failure to maintain a vehicle in good repair and in accordance with section 46-4.

(4) Failure to pay the full amount of the tax imposed upon each vehicle for hire when due.

(5) Repeated and persistent violation, by vehicle for hire drivers employed by the holder of the certificate, of the state law or provisions of this Code and other ordinances of the town relative to traffic and safety, alcoholic beverages or prostitution.

(6) Failure to report accidents.

(7) Willful failure to comply with any provision of the state laws or this article or other ordinance of the town relating to the operation of taxicabs.

(b) No certificate shall be revoked until the owner has had at least five days' notice by personal service or registered or certified mail of the charges against the certificate holder and of the time and place for an opportunity to be heard by the town manager. If, after such opportunity, the town manager finds that the owner is in violation of, or has violated one or more of the provisions listed in this section, the town manager shall have the power to revoke the certificate or to condition a revocation upon the compliance of with an order within any time fixed by it. A certificate may be suspended until a hearing where the town manager has cause to believe that such suspension is necessary to protect the public welfare and safety.

**Sec. 46-48. Appeals.**

(a) Any applicant or certificate holder aggrieved by the denial of an application or revocation or suspension of a certificate may appeal to the board of commissioners by filing a notice of appeal with the town clerk within ten (10) days of the adverse action being appealed. Appeals shall be made on a form prescribed by the town. Appeals shall be scheduled for a hearing at the next regular meeting of the board of commissioners held more than twenty (20) days after the appeal is filed with the town clerk. The board of commissioners shall hear each appeal *de novo* and may take any action that the town manager could have taken prior to the appeal.

(b) The town clerk shall also, within the same time, notify all persons who, at that time hold certificates with the town, of the date and time of such hearing and the name of the appellant. In addition, the town clerk shall post on the town hall bulletin board, at least ten days before such hearing, a notice setting forth the name of the appellant and the date and time of the hearing.

(c) Any testimony or evidence of an appellants criminal record received by the board of commissioners shall be received in closed session and shall not be a public record pursuant to N.C.G.S. 160A-304(a).

**Sec. 46-49. Effect of failure to begin operations within 30 days from grant.**

If a certificate is granted to an applicant under this article and such applicant shall fail, in accordance with the provisions of the certificate, to begin operations within thirty (30) days after the date of the issuance of the certificate, then the certificate shall become null and void; provided, however, that this section may be waived by the town manager on good cause being shown.

**Sec. 46-50. Transferability.**

A certificate shall not be transferable in any manner.

**Sec. 46-51. Substitution of vehicles.**

The person to whom a certificate has been issued may not substitute other vehicles as vehicles for hire for those vehicles which the certificate and medallions were issued.

**Secs. 46-52--46-80. Reserved.**

### **ARTICLE III. DRIVERS**

#### **Sec. 46-81. Vehicle for hire driver's permit required.**

In order to ensure that persons employed in the vehicle for hire business are of sound judgment and character, no person shall drive any vehicle for hire carrying passengers for hire from place to place within the town, or from within the town to places not in the town, without having a current and valid drivers license and a town vehicle for hire driver permit, referred to in this division as a "permit," issued to him by the town.

#### **Sec. 46-82. Vehicle for hire driver's permit application processing fee.**

There is hereby established an application processing fee in accordance with the town's consolidated fee schedule for each vehicle for hire driver's permit application. The purpose of this fee is to defray the expenses involved in processing the application, conducting the background investigation and other services rendered by town personnel and others in connection therewith. This charge shall not be refundable.

#### **Sec. 46-83. Vehicle for hire driver's permit fee.**

There is hereby established a vehicle for hire driver's permit fee and a vehicle for hire driver's permit renewal fee in accordance with town's consolidated fee schedule. Permits for drivers of taxicabs shall not exceed fifteen dollars (\$15.00) unless a greater amount is authorized by statute.

#### **Sec. 46-84. Application for vehicle for hire driver's permit.**

(a) *Contents, verification and filing.* Each application for a vehicle for hire driving permit shall be on a form prescribed by the town. It shall contain the applicant's name, address, photograph, age, weight, height, race, color of hair and eyes, fingerprints, prospective employer, previous employer, police record, number of his state driver's license and such other information as may be required by the town to determine whether or not the permit applied for should be issued. Each application shall be verified by the applicant under oath and shall be filed with the town.

(b) *Fingerprints and photograph.* Upon filing of an application for a permit, the applicant shall proceed to the department of public safety, police division for taking of fingerprints and a photograph. The photograph and fingerprinting are required for completion of the application process.

(c) *False statements.* Any false statement of material fact made in an application for a permit shall invalidate the permit issued thereon, and it shall be unlawful for any applicant knowingly to make any such false statement.

#### **Sec. 46-85. Investigation by the chief of police.**

The applicant's criminal history shall be investigated by the chief of police or his designee prior to the issuance of a permit. There shall be no dissemination of criminal records to non-criminal justice agencies. Pursuant to N.C.G.S. 160A-304(a), the chief of police is authorized conduct a national criminal history background check on any applicant and is hereby authorized to use FBI records to perform such check. If the chief of police determines that a national criminal history background check may provided relevant information regarding the applicant's fitness for receipt of a permit, the chief of police shall comply with the procedures contained in N.C.G.S. 160A-304(a) for obtaining the necessary authorizations and information and for providing that information to the SBI and the Department of Justice. The town may charge an additional fee to cover the costs of a national criminal history background check if one is performed.

#### **Sec. 46-86. Issuance of permit.**

The chief of police shall issue a permit to the applicant if the chief of police finds that an applicant for a permit:

- (a) The applicant is a citizen of the United States;
- (b) The applicant has a current and valid drivers license; and
- (c) None of the following situations apply to the applicant:

- (1) Conviction of more than one (1) DWI/DUI;
- (2) Conviction of only one (1) DWI/DUI within three (3) years of the application;
- (3) Conviction of more than one (1) careless and reckless driving offense;
- (4) Conviction of more than one (1) felony or misdemeanor drug related offense within ten (10) years of the application;
- (5) Conviction of any drug related offense involving possession/intent to manufacture, sell or distribute;
- (6) Conviction of any non-violent felony within ten (10) years if non-violent;
- (7) Conviction of any violent felony offense within twenty (20) years if violent;
- (8) Conviction of any sex offense or prostitution related offense;
- (9a) Conviction of any alcohol related offense involving the sale or distribution of alcohol within one (1) year of the application;
- (9b) Conviction of any alcohol related offense involving the aiding or abetting of the possession of alcohol by a minor;
- (10) Conviction of any similar criminal offense(s) involving moral turpitude;
- (11) Habitual conviction of traffic laws or town ordinances. An applicant's convictions shall be habitual if the applicant has more than five (5) convictions over any period of time or more than three (3) convictions within ten (10) years of the application;
- (12) Subject to a domestic violence protective order;

**Sec. 46-87. Driver's photograph as part of permit.**

Each permit shall contain a photograph of the driver to whom it is issued.

**Sec. 46-88. Annual validation of permits.**

Each person who has been issued a permit, which is in effect, shall present such permit to the chief of police, or any designated officer or assistant, at the department of public safety, police division, during the month of May of each calendar year for the purpose of having the permit validated. All permits not presented for validation in accordance with this section shall become null and void on July 1 of each calendar year.

**Sec. 46-89. Display of permit.**

The driver of every vehicle for hire shall at all times while operating such vehicle for hire, prominently post and display in such vehicle for hire, so as to be visible to the passengers therein, the issued permit to drive a vehicle for hire.

**Sec. 46-90. Revocation of driver's permit.**

The permit shall be effective for the period specified on the permit. If at any time it is found that a permittee is in violation of any of the requirements for issuance of a permit under section 46-86, then the town shall immediately revoke any permits previously issued to that driver.

**Sec. 46-91. Appeals.**

Any applicant or certificate holder aggrieved by the denial of an application or revocation or suspension of a driver's permit may appeal to the board of commissioners by filing a notice of appeal with the town clerk within ten (10) days of the adverse action being appealed. Appeals shall be made on a form prescribed by the town. Appeals shall be scheduled for a hearing at the

next regular meeting of the board of commissioners held more than twenty (20) days after the appeal is filed with the town clerk. The board of commissioners shall hear each appeal *de novo* and may take any action that the chief of police could have taken prior to the appeal. The burden of showing that the permit must be granted or reinstated shall be on the applicant/permittee. The board may also decide to grant a permit, based upon a favorable recommendation of the chief of police that good cause exists, to an applicant who does not otherwise qualify for a permit under the terms of this article. Such good cause may be based upon the length of time that has elapsed since a disqualifying criminal conviction, the age of the applicant at the time of such conviction, or such other circumstances that in the judgment of the chief of police indicates that the applicant is of good character and does not pose a risk of harm to the general public.

**ARTICLE IV. Severability.**

All Town ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. Should a court of competent jurisdiction declare this ordinance or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance nor the Zoning Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

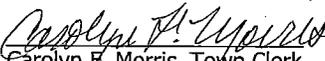
**ARTICLE V. Effective Date.**

This ordinance shall be in full force and effect from and after the 2<sup>nd</sup> day of September, 2010.



Robert O. Oakes, Jr., Mayor  
Town of Nags Head

ATTEST:

  
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
John Leidy, Town Attorney

Date adopted: September 1, 2010

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

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

Vote: 4 AYES 0 NAYS

ABSENT: Comr. Anna D. Sadler