



AN ORDINANCE ESTABLISHING AND CREATING FOUR (4) NAGS HEAD BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND DRAINAGE PROJECTS MUNICIPAL SERVICE DISTRICTS

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that Chapter 160A, Article 23 of the North Carolina General Statutes authorizes towns within North Carolina to define service districts to finance, provide, or maintain for such districts one or more services, facilities, or functions in addition to or to a greater extent than those financed, provided, or maintained for the entire city; and

WHEREAS, said statutes further provide that the town may define a service district for the purpose of beach erosion control and flood and hurricane protection works and drainage projects; and

WHEREAS, acting in response to a need for action in order to protect structures of historic significance, maintain the Town's tax and economic base, protect town infrastructure including facilities for public recreational access, the Board of Commissioners for the Town of Nags Head has determined that the creation of the municipal service districts defined in this Ordinance for beach erosion control and flood and hurricane protection works and drainage projects will be for the benefit of those properties located within the service district boundaries; and

WHEREAS, The Town of Nags Head has been actively engaged in the planning, design and construction of beach erosion control and flood and hurricane protection works and drainage projects for more than 20 years. The town has successfully completed the construction of two major projects related to these purposes. The first project placed 4.6 million cubic yards of beach compatible sand over 10 miles of the town's beaches starting from Bonnett Street and ending at the southern town limits. The total cost of construction was slightly greater than \$36 million. The second project, which was a combined town and FEMA public disaster assistance project, placed 4.0 million cubic yards of sand over 10 miles of the town's beaches. The total cost of this project was \$40 million. Both of these projects were funded, in part, by taxes imposed on two existing municipal service districts that encompass many of the ocean front properties included in the proposed municipal service districts defined in this Ordinance; and

WHEREAS, the Town's beach nourishment projects have also provided erosion control, flood, and storm protection to the properties located in the proposed municipal service districts defined in this Ordinance; and

WHEREAS, the Town's beach erosion control and flood and hurricane protection works projects have been successful in demonstrating clear benefits to the Town and its property owners. These benefits include the protection of properties on or adjacent to the oceanfront and properties adjacent to oceanfront properties or that are otherwise near the ocean. All such properties have been protected from erosion and storm damage. They have also benefited from protection of infrastructure such as roads, waterlines, septic systems, electrical services, and beach accesses that serve these properties and their occupants; and

WHEREAS, the benefits from the Town's beach erosion control and flood and hurricane protection works projects to date can be assigned to different parts of the community at different levels, with oceanfront properties having the greatest benefit. Properties neighboring but not directly on the ocean also benefit from reduced overwash flooding and impacts to infrastructure, as well as increased property values due to their proximity to a well-maintained recreational beach; and

WHEREAS, properties in the proposed municipal service districts are considered to be in an area of ocean influence by the Dare County Tax Assessor's office which generally increases property values. If the access points were damaged or destroyed or if the beach in these areas becomes degraded due to erosion or storm damage and debris, the value of these properties would be reduced to a greater extent than properties further from the ocean; and

WHEREAS, numerous studies establish that the oceanfront areas of Town will indefinitely continue to experience erosion and other damage caused by both typical and aberrant tidal and storm forces as well as rising ocean levels. The Town recognizes the necessity of projects to protect the oceanfront and areas near the ocean from the effects of these forces, including damage to roads, utilities, and structures on these properties and has adopted a policy to undertake such projects instead of a "retreat" policy; and

WHEREAS, the Town has in recent years completed a number of drainage and flood control projects in areas east of US 158 (South Croatan Highway), including the extension of the ocean outfalls and the redesign and reconstruction of the conveyance system connecting to the Red Drum ocean outfall. These projects improve drainage for the properties located within the proposed municipal service districts and thus benefit such properties to a greater extent than other properties in Town. The Town anticipates continuing to address this work to benefit the properties located within the proposed municipal service districts in future years; and

WHEREAS, the Board of Commissioners for the Town of Nags Head further finds that each of the proposed districts is in need of projects, programs, services, facilities or functions authorized by G.S. 160A-536(a)(1) and (3) to a demonstrably greater extent than the remainder of the town to meet the needs and goals set forth above; and

WHEREAS, pursuant to such determinations and in accordance with applicable provisions of the General Statutes, the Board of Commissioners for the Town of Nags Head has defined such a district, and does determine, as a fact, that the properties located in each of the proposed districts are in need of one or more of the services, facilities, or functions listed in G.S. 160A-536(a) to a demonstrably greater extent than the remainder of the town; and,

WHEREAS, a map of the proposed districts showing proposed boundaries, a copy of which is attached hereto and incorporated by reference, a statement showing that the proposed districts meet the standards set out in G.S.160A-537(a), and a plan for providing in the districts one or more of the services listed in G.S. 160A-536 has been created; all of which has been incorporated into a report which has been available for public inspection in the office of the Town Clerk for four (4) weeks prior to the public hearing on the matter of the establishment of the service districts; and

WHEREAS, the Board of Commissioners for the Town of Nags Head has caused a notice of such hearing to be duly published in the Coastland Times, a newspaper having general circulation in the Town of Nags Head and Dare County, said hearing having been conducted on May 5, 2021, and the Town Clerk has certified to the Board of Commissioners that the mailing of notice of hearing has been completed, all in conformity to G.S.160A-537(c).

NOW, THEREFORE, BE FURTHER ORDAINED BY THE BOARD OF COMMISSIONERS FOR THE TOWN OF NAGS HEAD, NORTH CAROLINA THAT:

1. The Town of Nags Head has fully complied with each and every requirement of Chapter 160A, Article 23 of the North Carolina General Statutes needed to define and create each of the Districts defined below and determines and finds same as a fact.
2. The Nags Head Beach Erosion Control and Flood and Hurricane Protection Works and Drainage Projects Municipal Service Districts for erosion control and flood and hurricane works are hereby defined and created pursuant to North Carolina General Statute Sec. 160A-537 in accordance with the following description:

District 3 – Encompassing all properties situated east of South Croatan Highway between Bonnett Street and Gulfstream Street/South Virginia Dare Trail.

District 4 – Encompassing all properties situated between Gulfstream Street/South Virginia Dare Trail and the southern town limits.

District 5 – Encompassing all properties situated east of South Virginia Dare Trail between Eighth Street and Bonnett Street.

District 6 – Encompassing all properties situated east of South Croatan Highway between Eighth Street and Bonnett Street.

and being the property as shown within the boundaries set forth on that certain map attached hereto as Exhibit "A" and incorporated herein by reference, to which reference is made for a more complete and accurate description of the boundaries of the Nags Head Beach Erosion Control and Flood and Hurricane Protection Works and Drainage Projects Municipal Service Districts as defined in this Ordinance.

3. The Town of Nags Head may engage in any or all of those activities that may lawfully be conducted within a municipal service district defined and created pursuant to North Carolina General Statute Sec. 160A-536(a)(1) and (3) to provide beach erosion control and flood and hurricane protection works and drainage projects.
4. The Town may also levy property taxes within the service districts in addition to those throughout the town in order to finance, provide or maintain for the districts, services provided therein, in addition to or to a greater extent than those financed, provided or maintained for the entire town.

Effective Date.

This ordinance amendment was approved by the Board of Commissioners at its meeting on this **5th** day of **May 2021** and its meeting on _____, and shall take effect immediately at the beginning of Fiscal Year 2021/2022.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: May 5, 2021 (First Reading)

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS