

(DRAFT)

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO THE
ALLOWANCE AND REGULATION OF ACCESSORY DWELLING UNITS**

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 comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, the Board of Commissioners requested preparation of an ordinance allowing Accessory Dwelling Units for consideration by the Planning Board and Board of Commissioners; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan encourages accessory dwellings in appropriate locations, noting that such units may be a means to address affordable housing and diversify available accommodations; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan references that accessory dwellings are commonly subordinate in size to a main dwelling and can provide housing for workers and also for family members who need care but wish to have independent living quarters; and further that maid’s quarters were commonly constructed as accessory dwelling units to the cottages in the Nags Head Historic Cottage Row, and that the concept could be reestablished to address several needs including accommodations for seasonal, year-round residents, and the town’s aging population; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan includes a policy and action supporting the allowance of accessory dwelling units and housing appropriate for seasonal populations within the town, with a qualification that regulations are consistent with the Town’s size limitations for large residential dwellings; and

WHEREAS, the Board of Commissioners finds that these text amendments are consistent with the goals, objectives and policies of the Town’s adopted Comprehensive Plan, and that this action is reasonable and in the public interest, and 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 Unified Development Ordinance 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 ellipsis (“...”) shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

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

PART I. That **Appendix A., Definitions, Section A.4, Definitions**, be amended by deleting the definition for “Dwelling, accessory” in its entirety and replacing with the following definition:

Dwelling, accessory means the accessory use of land by establishment of a secondary dwelling unit in conjunction with, and clearly subordinate to, a principal dwelling unit, whether part of the same structure as the principal dwelling unit or as a detached structure on the same lot for use by persons intending to establish residency or otherwise occupy the dwelling unit for a period of 30 days or greater. Any property or structure constructed, designed, or advertised or actually used in such a manner as to meet this definition shall be presumed to be an accessory dwelling unit.

PART II. That **Article 6., Zoning Districts, Section 6.6, Table of Uses and Activities**, be amended by replacing the existing row for “Dwelling, Accessory” and inserting a row therefor as it appears in Attachment A to this Ordinance.

PART III. That **Article 7., Supplemental Regulations, Part II., Residential, Section 7.3, Dwelling, Accessory**, be amended by deleting the section in its entirety and replacing with the following:

SECTION 7.3 DWELLING, ACCESSORY.

Accessory dwellings are permitted as an accessory use to a single-family dwelling in accordance with Section 6.6, Tables of Uses and Activities, provided the following requirements and conditions are met:

7.3.1. No more than one accessory dwelling shall be permitted on a single residential lot.

7.3.2. The enclosed habitable living area of the accessory dwelling shall not exceed 50% of the size of the principal dwelling or 600 square feet, whichever is less.

7.3.3. The cumulative enclosed habitable living area for the accessory dwelling and the principal dwelling shall not exceed 3,500 square feet if the lot is less than 16,000 square feet. Cumulative enclosed habitable living area shall not exceed 5,000 square feet if the lot is 16,000 square feet or greater. If the cumulative area exceeds 3,500 square feet, both the principal and

accessory dwelling shall comply with the standards for large residential dwellings.

7.3.4. If the accessory dwelling is located in a detached structure, separate from the principal dwelling, the height of the detached structure shall not exceed one and one-half (1 ½) stories.

7.3.5. Accessory dwellings may only be located within structures built in accordance with the North Carolina Residential Building Code; the use of manufactured or mobile homes, travel trailers, motorhomes, campers or similar vehicles as accessory dwellings is prohibited.

7.3.6. For accessory structures containing an accessory dwelling, the minimum five (5) foot setback from property lines shall be increased to ten (10) feet; if such structures or portions thereof are located forward of the midpoint of the principal structure (the halfway point of the principal structure, including decks, measured from the front to the rear of the structure) such structures shall meet all principal structure setbacks.

7.3.7. Pursuant to Sections 10.12 and 10.16 of this Unified Development Ordinance, bedrooms within an accessory dwelling shall be included in any calculation to determine the number of required parking spaces for a single-family dwelling; one (1) additional off-street parking space shall be provided for the accessory dwelling above that which is required for the single-family dwelling by Sections 10.12 and 10.16.

7.3.8. The accessory dwelling shall share the same electrical and water meter as the principal dwelling.

7.3.9. The owner must obtain a permit from the county environmental health department indicating that the septic system has sufficient capacity to support the use and development of the property. Total occupants residing on the property shall not exceed the number specified by the septic improvement permit.

7.3.10. Before granting a conditional use permit for an accessory dwelling in districts where applicable, the Board of Commissioners shall make the following affirmative findings, in addition to those findings required in Section 3.8.4.6. of this Unified Development Ordinance:

7.3.10.1. The exterior design of the accessory dwelling is compatible with the existing single-family dwelling on the lot through architectural use of building forms, scale, and construction materials;

7.3.10.2. The accessory dwelling will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties; and

7.3.10.2. The accessory dwelling will not result in excessive noise, traffic, or parking congestion.

PART IV. That the Table of Contents for **Article 7., Supplemental Regulations**, shall be amended by replacing “Section 7.3 Dwelling, Accessory (Reserved)” with “Section 7.3 Dwelling, Accessory”.

PART V. That **Section 5.2, Nonconforming Lots of Record, Section 5.2.2.** be amended as follows:

5.2.2. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected, and permitted accessory uses shall be allowed subject to necessary approvals, on any single lot which met all legal requirements at the time of its creation and recording in the Dare County Register of Deeds, subject to the following provisions:

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Unified Development 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 amendment shall be in full force and effect on October 7, 2019, the adopted effective date of the Unified Development Ordinance.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:
Town Attorney _____
Date adopted: _____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS