



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

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

PART I. That **Section 48-442(b)(6), Intent of the SED-80, Special Environmental District**, be amended as follows:

~~(6) Prohibit commercial and industrial use of the land and any other use not compatible with the ecological carrying capacity of the area except as provided in this section.~~

PART II. That **Section 48-442(c), Definitions**, be amended as follows:

~~*Surficial groundwater* means groundwater stored between the geographical surface and the first confining impermeable subsurface strata.~~

Dry Hydrant means an arrangement of pipe permanently connected to a water source other than a piped, pressurized water supply system that provides a ready means of water supply for fire-fighting purposes and that utilizes the drafting (suction) capability of the fire department pump. (NFPA 1142: Standard on Water Supplies for Suburban and Rural Fire Fighting, 2007 Edition, 3.3.5)

Dry well means a structure or series of structures located to collect and discharge stormwater through a subterranean chamber which allows collected water to dissipate and infiltrate into the ground.

Environmental Awareness Area is an area designated and maintained for the purpose of conservation and environmental education, and which may include interpretive signage, trails, research stations and appurtenant office, restroom and mechanical facilities (and is distinct from the definition of "Area of Environmental Concern" or "AEC" which is a CAMA designation).

And that **Section 48-7 Definitions of Terms**, be amended to include the definition for wetlands from Federal Regulations (40 CFR 230.3(t)) and EMC Rules (15A NCAC 2B.0202(71)):

Wetlands are areas that are inundated or saturated by an accumulation of surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions."

PART III. That **Section 48-442(d), Permitted Uses within the SED-80, Special Environmental District**, be amended as follows:

(1) Detached single-family dwellings, each on its own individual lot.

- (a) Single-family dwellings containing five or more bedrooms shall be subject to the applicable requirements specified in section 48-370.
- (b) Single-family dwellings shall not contain more than 8 bedrooms.

(2) Watershed conservation areas.

(3) Nonprofit wildlife and ecological preserves.

(4) Hiking trails.

- (5) Municipal estuarine access facilities.
- (6) Private docks as permitted by CAMA and storage buildings not to exceed 300 square feet.
- (7) Estuarine bulkheads.
- (8) Accessory uses and structures limited to private swimming pool, private tennis court, detached garage, storage building, roof top wind energy facilities and private dock. Any accessory use or structure shall meet the front, rear and side setbacks required for principal structures, except for water-dependent structures, which may be excluded from water-side setback only.
- ~~(9) Boardinghouse, subject to other requirements of this chapter and provided that the following conditions are met:~~
 - ~~a. Boardinghouses may not exceed two rooms, which are intended to be rented.~~
 - ~~b. Occupancy by tenants shall not exceed more than two persons per bedroom and shall be for durations of generally greater than one week.~~
 - ~~c. Individual rooms shall not contain independent cooking facilities this however shall not prohibit the serving of meals to tenants or the use of a single kitchen by tenants.~~
 - ~~d. Boardinghouses shall be owner occupied and serve as the primary residence of the owner.~~
- ~~(10)(9) Large residential dwellings, subject to other requirements of this chapter and provided that all the conditions are met specified in section 48-370.~~

PART IV. That Section 48-442(e), Conditional uses within the SED-80, Special Environmental District, be amended as follows:

- (1) Residential cluster housing, subject to other requirements of this chapter and provided that the following conditions are met:
 - (a) Residential clusters shall be on single parcels of which at least 50 percent of the parcel is net buildable land.
 - (b) No unit in a residential cluster shall be located within 50 feet of a property line.
 - (c) Residential clusters shall be limited to a maximum of ~~four~~ three dwelling units per lot. The number of bedrooms and land area of required uplands shall conform to the density below table:

No. of Residential Units	No. of Bedrooms Allowed	Area of Upland Required
1	8	80,000
2	12	160,000
3	14	240,000

- (d) Area requirements for residential clusters shall be 80,000 square feet of lot per ~~unit~~ single-family dwelling on site.
- (e) The minimum separation between detached units in a cluster shall be 20 feet.
- (f) Under no circumstance shall any one single family dwelling unit contain more than 8 bedrooms.

(2) Cemeteries, subject to other requirements of this chapter and provided that the following conditions are met:

- a. All cemeteries shall have perpetual care.
- b. All graves or burial plots shall be set back not less than 30 feet from any public right-of-way and be not less than 50 feet from any lot line.
- c. When a cemetery abuts a residential use, a 25-foot-wide undisturbed area of natural vegetation shall buffer the cemetery from the residential development.
- d. The site shall be approved by all necessary regulatory agencies including, but not limited to, the county department of environmental health and the state cemetery commission.

(3) Environmental awareness areas of low-intensity use, subject to other requirements of this chapter and provided that the following conditions are met:

- a. When an environmental awareness area abuts a residential use, a 25-foot-wide undisturbed area of natural vegetation shall buffer the environmental awareness area from the residential development.
- b. Lighting shall be prohibited.

(4) Municipal government passive recreational uses, specifically excluding motorized recreational activities, horse stables and riding trails, lighted ball fields, amusement parks, miniature golf courses, race and go-cart tracks, theaters of all kinds and similar uses which would tend to create a high concentration of activity and associated light, noise, dust, stormwater runoff, erosion, vegetation damage, or which would cause other similar adverse environmental effects, subject to other requirements of this chapter and provided that the following conditions are met:

- a. When a passive recreational use abuts a residential use, a 25-foot-wide undisturbed area of natural vegetation shall buffer the passive recreational use from the residential development.
- b. Lighting shall be prohibited except for minimum lighting that may be required for security purposes and shall be in accordance with article IX of this chapter.

(5) Municipal government facilities owned and operated by the town shall be limited to police firing range, public safety and governmental offices subject to other requirements of this chapter and meeting the following conditions:

- a. Lighting shall be the minimum amount that may be required for security purposes and shall be in accordance with article IX of this chapter.
- b. A police firing range shall be located a minimum distance of 500 feet from any residential use.
- c. Non-commercial, public safety and governmental heliport facilities shall comply with current FAA regulations in its design, size and use, and shall meet all applicable federal, state and local heliport requirements and the following:
 1. A proposed heliport lighting plan designed to comply with FAA regulations but shall be ground-level based, using cutoff or restrictive features to minimize overspill of light from the activity area itself.
 2. Heliport design and approach and departure areas shall be maintained per Heliport Design Advisory Circular 150/5390-2, USDOT, Federal Aviation Administration, January 4, 1988, as amended.
 3. The heliport shall be ground-based only. No rooftop facility shall be permitted.
 4. No fixed based operations or refueling facilities shall be permitted on the heliport site.

(6) Medical offices, nursing homes, and convalescent homes, provided that all such uses shall be located in that area as is now designated or may hereafter be designated for such uses by the Town pursuant to chapter 1160 of the Session Laws of 1973 of the North Carolina General Assembly, as amended, and subject to the following:

- a. A minimum lot area of 80,000 square feet shall be required for each principal building on the site.
- b. Lighting shall be the minimum amount that may be required for security purposes and shall be in accordance with article IX of this chapter.
- c. Along the side and rear property lines, a 25-foot-wide undisturbed area of natural vegetation shall be provided.
- d. An evacuation plan shall be provided and be subject to review by the Town.
- e. Medical and Rehabilitation Facilities may be located within a Nursing Home or Convalescent Home.

~~(7) Dormitory for temporary use by staff of government or nursing and convalescent homes only in conjunction with government services or Medical, Nursing Home and Convalescent Home facilities already permitted in SED-80.~~

~~(7) Medical office. Medical offices shall be located in that area as is now designated or may hereafter be designated for such uses by the town pursuant to chapter 1160 of the Session Laws of 1973 of the North Carolina General Assembly, as amended, subject to the following:~~

- ~~a. Lighting shall be the minimum amount that may be required for security purposes and shall be in accordance with article IX of this chapter.~~
- ~~b. Along the side and rear property lines, a 25-foot-wide undisturbed area of natural vegetation shall be provided.~~

(8) Public water supply well fields, meeting the following conditions:

- a. Land clearing and grade changes around individual well point sites shall be limited to the least amount necessary to provide access for installation and maintenance of the well and pumps. In no case shall clearing and grading exceed a 30-foot radius around the well point.
- b. Water line placement shall be accomplished in a manner that reduces the need to remove vegetation and shall be placed, where feasible, along existing roads or pathways.
- c. When feasible, access to well sites shall be provided along established roadways or along existing pathways which can be improved to accommodate service vehicles.
- d. All utilities shall be placed underground.
- e. All development shall be in accordance with subsection (g)(2) of this section.

PART V. That **Section 48-442(f), Dimensional Requirements of the SED-80, Special Environmental District**, be amended as follows:

(1) For single-family detached dwellings and all principal nonresidential buildings on an individual lot, unless otherwise specified:

- a. A minimum lot area of 80,000 square feet is required for each principal building on a site.
- b. The minimum required front yard is 30 feet, subject to the provisions of this section and subsection (g)(3) of this section.
- c. The minimum required side yard is 20 feet, subject to the provisions of this section and subsection (g)(3) of this section.

d. The minimum required rear yard is 20 feet, subject to the provisions of this section and subsection (g)(3) of this section.

(2) For all single-family detached dwellings, all residential clusters and all principal buildings:

a. Minimum required lot width as measured at building line is 200 feet.

b. No structure or parking lot shall be located closer than 50 feet to any pond, stream, marsh or other wetlands or wetland swales.

c. No structure or parking lot shall be located closer than 130 feet of the eastern boundary of the ridge line forest, and no removal of vegetation shall be permitted within 100 feet of the eastern boundary of the ridge line forest.

d. Principal and accessory structures shall meet all requirements of subsection (g)(2) of this section.

e. Maximum building height is 35 feet. However, the height of a structure meeting the minimum roof pitch requirements of section 48-370 (d) shall be allowed a maximum total height of 42 feet. The provisions of Section 48-81, structures excluded from height limitations, shall not apply to the SED-80 district, except flagpoles and chimneys may exceed 35 feet in height.

f. The lot coverage shall not exceed 15 percent. In the case of lots abutting estuarine waters (as defined by Division of Marine Fisheries and used by CAMA), lot coverage shall be in accordance with the standards listed above, except that in the area waterward of the U.S. Army Corps of Engineers 404 fill line, lot coverage shall not exceed 15 percent. If the Corps of Engineers 404 fill line is not evident or located within the estuarine AEC, as defined by CAMA, lot coverage within the estuarine AEC shall not exceed 15 percent. Lot coverage allowances shall not be transferred from one portion of the lot to another. The area necessary for shared accessways in accordance with section 48-90(a) shall be excluded from the total lot coverage allowance for an individual lot.

g. In those instances where a Roanoke Sound dune ridge is not evident, no principal structure may be placed closer than 70 feet of the mean high water line. In those instances where an estuarine frontal dune is not evident, no principal structure may be placed closer than 50 feet of the mean high water line.

PART VI. That **Section 48-442(g)(2), Special Development Standards, Site Design within the SED-80 Special Environmental District**, be amended as follows:

g. The draw-down of groundwater, except for on-site wells designed to serve buildings on individual lots, and the alteration of natural drainage patterns are prohibited.

~~n. All parts of all principal structures within a residential cluster of three or four units shall be located within 250 feet of a fire hydrant. Existing lots and parcels shall have no fire hydrant requirement unless to be developed as clusters of three or four units. Lots and parcels created after the effective date of this chapter, August 4, 1993, except those to be developed as clusters of three or four units, shall have fire hydrants spaced in accordance with the requirements of chapter 38, subdivisions, of this Code.~~

PART VII. That **Section 48-442(3)(b), Standards of Review and Approval Procedure, Site Plan Approval Process within the SED-80 Special Environmental District**, be amended as follows:

1. ~~Single-family residences and clusters of two units.~~ Site plans for single-family residences and clusters of two dwelling units shall be reviewed by the planning and development department. The planning and development department may approve site plans when the dimensional requirements and standards of this chapter are met and when no trees 16 inches or greater are requested to be removed.

2. ~~Clusters of two or three single family dwellings, three or four units and other development.~~ The planning and development department shall review the proposed site plan and forward

the site plan to the planning board and board of commissioners for review and approval. In granting approval, the board of commissioners shall, in addition to this article, apply Article XIV of this chapter and all other applicable town codes and ordinances.

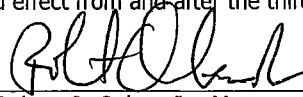
3. *Subdivisions.* Subdivisions shall be as provided for in chapter 38 of this Code.

PART VIII. That **Section 44-63, Connection to Town System Required, Exception**, be amended as follows:

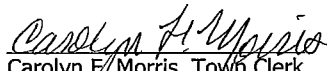
All new development shall be connected to the town water system, in accordance with standards and specifications then in effect, for water supply. Single family residences may be exempted from this requirement if they meet all of the following requirements:

- (1) The structure is proposed for a lot of at least 40,000 square feet in size, or is an existing lot of record that does not front on a dedicated right-of-way, or a lot that has been previously developed without benefit of a water tap;
- (2) The lot is located in excess of 500 feet from an existing installed water main that has been accepted and maintained by the Town in accordance with Town Code Chapter 38, Subdivisions;
- (3) The lot is recorded at the county registry and met all subdivision and zoning requirements at the time of its creation;
- (4) The developer obtains all necessary approvals from the appropriate regulatory agencies; and
- (5) A fire protection method that offers equivalent or better fire flow for the residential units as would be provided with connection to the Town water system as reviewed and approved by the Fire Chief. Equivalent protection strategies include use of, or combination of use of dry hydrants, on-site water storage and a multi-purpose residential sprinkler system to provide fire protection.

PART IX. 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 third day of August 2011.


 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: August 3, 2011

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS