



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

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically regulating the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land; and

WHEREAS, 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 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, the Town of Nags Head has historically developed with a pattern of low-density, single- family dwellings; and

WHEREAS, pursuant to N.C.G.S. § 160A-383, the Town may enact and amend ordinances providing zoning regulations for land within its jurisdiction when designed to promote the public health, safety and general welfare; and further may adopt regulations addressing, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewage, schools, parks and other public requirements.

WHEREAS, N.C.G.S. § 160A-381 requires that regulations adopted and considered by the Town be made with reasonable consideration to, among other things, the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town; and

WHEREAS, the size, intensity, and density of dwelling units in the Town has increased over time which has created impacts to the community and within neighborhoods related to over occupancy of dwellings, noise, parking, solid waste, wastewater disposal, population density and development intensity, and community aesthetics; and

WHEREAS, N.C.G.S. § 160A-381 requires that zoning regulations be adopted and considered by the Town in accordance with a comprehensive plan; and

WHEREAS, the Town's Vision Statement adopted as part of the Town of Nags Head 2010 CAMA Land Use Plan states that "the town is working to build a community with an economy based on family vacation tourism and that important elements to maintaining this economy are:

- A relaxed-paced beach community comprised primarily of low-density development and open spaces; and
- A healthy, well-maintained oceanfront beach that is accessible and usable; not blocked by large structures"; and

WHEREAS, the Land Use Plan also states that "The Town realizes that vacation rentals and seasonal rentals, and particularly, the rental of large oceanfront homes, while promoting the single- family tourist rental economy, can significantly impact Town municipal resources and infrastructure"; and furthermore, "The Town shall comprehensively review impacts that these large structures have on the resources, municipal services, and neighboring properties and amend zoning and Town regulation accordingly"; and

WHEREAS, a high priority policy in the plan indicates that "The Town will not amend the zoning ordinance or any development regulation which would result in either increased density (units/acre) or increased intensity of these homes"; and

WHEREAS, North Carolina Session Law 2015-86 amended N.C.G.S. § 160A-381, effective June 19, 2015, to prohibit local governments within the State of North Carolina from regulating certain building design elements for One- and Two-Family Dwellings or regulating the number and types of rooms or the interior layout of rooms; and

WHEREAS, the recent amendment to N.C.G.S. § 160A-381 directly impacts existing ordinances the Town has enacted to control the density, appearance, and overall quality of residential development, as well as the public health, safety and general welfare, including ordinances adopted for the purposes allowed by N.C.G.S. § 160A-383; and

WHEREAS, the Town will now amend these ordinances to comply with N.C.G.S. § 160A-381 while utilizing the remaining available regulatory tools as allowed by law to achieve town goals with respect to the aforementioned concerns related to the quality of Town development; and

WHEREAS, the Town finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest.

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 be amended as follows:

PART I. That **Section 48-7 Definitions of Specific Words and Terms** be amended to read as follows:

Dwelling, large residential means a single-family dwelling or two-family dwelling (duplex) as defined by this chapter that ~~contains between six and eight bedrooms or~~ has 3,500 or more square feet of enclosed habitable living space. ~~Such dwelling shall not exceed a maximum number of eight bedrooms.~~ Maximum total enclosed habitable living space for any single-family dwelling or two-family dwelling shall not exceed 5,000 square feet unless in conformance with all provisions of subsection 48-370(g)(d)(1). Enclosed habitable living space ~~and the total number of bedrooms~~ for large residential dwellings shall be calculated to

also include any enclosed habitable living space ~~and/or bedrooms~~ that may be present in any accessory structure that is located on the same lot as the principal structure.

PART II. That **Section 48-370 Residential Design Standards** be amended to read as follows:

Sec. 48-370. - ~~Residential design standards~~ Standards for Large Residential Dwellings.

- (a) **Intent.** The purpose of establishing this section is to set forth a comprehensive set of regulations designed to ~~protect and~~ promote and encourage the unique and historical elements of residential architecture held to be valued as an integral part of the Town image, to ensure that future residential development is compatible with its natural and developed environments, and to afford the highest level of protection for both permanent residents and seasonal visitors occupying these structures in the furtherance of public safety and welfare.
- (b) **Exceptions of Applicability.** All existing ~~single-family, two-family, and large residential dwelling uses~~ which do not meet the requirements of this section shall be regulated in accordance with article IV of this chapter.
- (c) *Large residential dwellings*, as defined in section 48-7, shall be subject to the requirements set forth in subsections (d) through ~~(h)~~ (g) of this section. *Large residential dwellings* located in an area designated as a historic district on the National Register of Historic Places shall comply with the provisions of the Nags Head Residential Design Guidelines.
- (d) **Dimensional Requirements.**
- (1) The minimum *lot area* for *large residential dwellings* shall be sixteen-thousand (16,000) square feet. The total enclosed habitable living space for large residential dwellings may only exceed 5,000 square feet when located in the SED-80 zoning district on a lot which meets the minimum lot area requirements for that district.
- (2) For *large residential dwellings* that contain 4,200 square feet or less in area, the minimum width of the side yard shall be 12 feet. For large residential dwellings with greater than 4,200 square feet in area, the minimum width of the side yard shall be 14 feet. For property owners that elect to following the Nags Head Residential Design Guidelines (see Appendix A), the minimum width of the side yard may be determined using the dimensional requirements contained within Articles XI or XII of this Chapter applicable to the zoning district in which the dwelling is proposed.
- (3) The maximum height for *large residential dwellings* shall be 35 feet. For property owners that elect to following the Nags Head Residential Design Guidelines (see Appendix A); and, when the proposed large residential dwelling utilizes an 8/12 roof pitch as specified the Town of Nags Head Residential Design Guidelines, the maximum height for a *large residential dwelling* may be increased to 42 feet.

~~**Residential Architectural Point System.** The architectural design elements listed in the table below have been assigned individual point values. A combination of these elements must be incorporated into the design of each dwelling building to which the point system is applicable in order to achieve the~~

minimum required point totals for each dwelling classification. The required specifications for each architectural design element are detailed further in the "Town of Nags Head Residential Design Manual" (Appendix of this Chapter).

Town of Nags Head Residential Design Manual — Point Tabulation Form

DESIGN ELEMENT*	FORMULA/NO. OF POINTS POSSIBLE	POINTS
Porches	<p><i>First Floor Porches — $p1/b1 \times 150 =$</i></p> <p><i>— $p1 =$ perimeter of first floor with porch</i></p> <p><i>— $b1 =$ perimeter of first floor</i></p> <p><i>Second Floor Porches — $p2/b2 \times 75 =$</i></p> <p><i>— $p2 =$ perimeter of second floor with porch</i></p> <p><i>— $b2 =$ perimeter of second floor</i></p>	
Dormers <i>— (25 points max.)</i>	<p><i>Hip or Gable — $n \times 5 =$</i></p> <p><i>Shed — $n(10) + L =$</i></p> <p><i>— $n =$ no. of dormers</i></p> <p><i>— $L =$ linear ft. past 12'</i></p>	
Coastal Watch Tower <i>— (10 points max.)</i>	10	
Roofs	25	
Building Form <i>— (40 points max.)</i>	<p><i>Bump Outs — $f \times 10 =$</i></p> <p><i>— $f =$ façade with required bump outs</i></p> <p><i>Combination Base Form — 40</i></p>	
Siding Materials	<p><i>Wood Shingles — 25</i></p> <p><i>Simulated Wood Shingles — 12</i></p>	
Misc. Details	<p><i>Windows — 20</i></p> <p><i>Workable Shutters — 15</i></p> <p><i>Exposed Rafter Tails — 5</i></p> <p><i>Beauty Bands — 5</i></p> <p><i>Column Trim — 5</i></p> <p><i>Gable Bracket — 5</i></p> <p><i>Built-in Railing Benches — 5</i></p>	
Parking	<p><i>$20 \times (I-R) =$</i></p> <p><i>$I =$ number of parking spaces installed</i></p> <p><i>$R =$ number of parking spaces required by Section 22-251(b)</i></p>	
Minimum Required Total Points for Dwelling Category Two (2) and Dwelling		15 X Number of

**Meeting the specifications as indicated in the Town of Nags Head Residential Design Manual*

- (e) **Open Space Preservation/Landscaping Requirements** - All large residential dwellings shall comply with the requirements of one of the following subsections:

- (1) The preservation of a minimum of ten percent (10%) of the lot's total area with existing natural vegetation and/or dune elevations. Areas designated for the preservation of existing vegetation shall contain significant examples of native vegetation and be identified and maintained in accordance with Section 48-485(b)(1), (4), & (5).
- (2) The planting of a minimum of fifteen percent (15%) of the lot's total area. At minimum fifty percent (50%) of the required landscaping shall consist of locally adapted live evergreen *tree* species that are a minimum height of three (3) feet and one (1) inch in diameter measured at one-half (1/2) foot above grade when planted. The remainder of the buffer may be live *forbs* and *shrubs* measuring at least one and one-half (1 1/2) feet when planted.

The above landscaping requirements may be altered due to unique and unusual physical conditions or characteristics of the property, including the reduction of landscaping requirements for oceanfront properties and other lots containing significant dune features that will be preserved in equal proportion.

The property owner shall be responsible for maintaining the landscaped areas required by this section, including the replacement of dead and missing vegetation.

- (f) **Sewage Disposal**

- 1) Reporting Requirements – For all *large residential dwellings* utilizing innovative septic systems, the owner shall provide the Town with a copy of the latest septic improvement inspection reports as required by, and at the same time when submitted to, the Health Department for required reporting purposes.
- 2) Permitting Requirements – The maximum permitted wastewater capacity for *Large Residential Dwellings* shall not exceed 1080 gallons per day. ~~Additional bedrooms or bedroom equivalent areas shall not be added to existing structures except in conformity with this section.~~

~~(g) **Dimensional Requirements.** The minimum lot area for large residential dwellings shall be sixteen thousand (16,000) square feet. The total enclosed habitable living space for large residential dwellings may only exceed 5,000 square feet when located in the SED-80 zoning district on a lot which meets the minimum lot area requirements for that district.~~

~~(h)(g) **Parking.** Parking for all large residential dwellings shall be in conformance with the requirements of section 48-162 applicable to single-family dwellings and two-family dwellings (duplexes). Parking in excess of that required in section 48-162 shall be eligible for residential architectural points under subsection 48-370(d).~~

~~Optional~~ – Parking spaces for all *large residential dwellings* shall be based on the following formula: N-1, with N representing the number of bedrooms authorized

by the septic improvement permit issued by the county department of environment health or the appropriate permitting agency. For property owners that elect to follow the Nags Head Residential Design Guidelines, parking for all *large residential dwellings* shall be in conformance with the requirements of section 48-162 applicable to single-family dwellings and two-family dwellings (duplexes).

Part III. That **Sec. 48-402. R-1 Low-Density Residential District** (b) be amended as follows:

- ~~(1)~~ Detached *single-family dwellings* (not to include *trailers* or *mobile homes*).
~~*Single-family dwellings containing five (5) bedrooms shall be subject to the applicable requirements specified in specified in 48-370.*~~
- ~~(2)~~(1) Estuarine bulkheads.
- ~~(3)~~(2) Municipally owned public access facilities.
- ~~(4)~~(3) Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.
- ~~(5)~~(4) Large residential dwellings, subject to other requirements of this chapter and provided that all the conditions are met as specified in section 48-370.

Part IV. That **Sec. 48-402. R-1 Low-Density Residential District** (d) be amended as follows:

- (5) The minimum width of the side yard shall be 12 feet. In the case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than 15 feet, except in the case of pre-existing nonconforming lots that are less than 10,000 square feet in lot area and 60 feet or less in lot width, in which case the minimum setback shall be 12 feet. For *large residential dwellings*, the minimum width of the side yard shall be regulated in accordance with section 48-370 (d).
- (8) Maximum height of structures shall be 35 feet. ~~However, the height of a structure meeting the minimum roof pitch requirements of subsection 48-370(d) shall be allowed a maximum total height of 42 feet.~~ However, the maximum height of a structure may be increased to 42 feet if the structure utilizes an 8/12 roof pitch as specified in the Town of Nags Head Residential Design Guidelines. For *large residential dwellings*, height shall be regulated in accordance with section 48-370 (d).

PART V. That **Sec. 48-403. R-2 Medium-Density Residential District** (b) be amended as follows:

- ~~(1)~~ Detached single-family dwellings (not to include trailers or mobile homes).
~~*Single-family dwellings containing five (5) bedrooms shall be subject to the applicable requirements specified in specified in 48-370.*~~

~~(1) D~~

~~(2) Duplexes.~~

~~(2) Duplexes containing five (5) bedrooms shall be subject to the applicable requirements specified in Section 48-370 Residential Design Standards.~~

(3) Estuarine bulkheads.

(4) Municipally owned public access facilities.

(5) Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.

(6) Large residential dwellings, subject to other requirements of this chapter and provided that all the conditions are met as specified in section 48-370.

(7) Residential cluster housing, subject to other requirements of this chapter and provided that the following conditions are met:

Part VI. That **Sec. 48-403. R-2 Medium-Density Residential District** (d) be amended as follows:

(5) The minimum width of the side yard shall be ten feet. In the case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than 15 feet, except in the case of pre-existing nonconforming lots that are less than 10,000 square feet in lot area and 60 feet or less in lot width, in which case the minimum setback shall be 12 feet. For *large residential dwellings*, the minimum width of the side yard shall be regulated in accordance with section 48-370 (d).

(8) Maximum height of structures shall be 35 feet. ~~However, the height of a structure meeting the minimum roof pitch requirements of subsection 48-370(d) shall be allowed a maximum total height of 42 feet.~~ However, the maximum height of a structure may be increased to 42 feet if the structure utilizes an 8/12 roof pitch as specified in the Town of Nags Head Residential Design Guidelines. For *large residential dwellings*, height shall be regulated in accordance with section 48-370 (d).

PART VII. That **Sec. 48-404. R-3 High-Density Residential District** (b) be amended as follows:

~~(1) Detached single-family dwellings (not to include trailers or mobile homes).
Single-family dwellings containing five (5) bedrooms shall be subject to the applicable requirements specified in specified in 48-370.~~

~~(1)~~

(2) Duplexes. ~~Duplexes containing five (5) bedrooms shall be subject to the applicable requirements specified in Section 48-370 Residential Design Standards.~~

(3) Estuarine bulkheads.

(4) Municipally owned public access facilities.

- (5) Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.
- (6) Large residential dwellings, subject to other requirements of this chapter and provided that all the conditions are met as specified in section 48-370.

Part VIII. That **Sec. 48-404. R-3 High-Density Residential District** (d) be amended as follows:

- (5) The minimum width of the side yard shall be eight feet. In the case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than 15 feet, except in the case of pre-existing nonconforming lots that are less than 10,000 square feet in lot area and 60 feet or less in lot width, in which case the minimum setback shall be 12 feet. For *large residential dwellings*, the minimum width of the side yard shall be regulated in accordance with section 48-370 (d).
- (7) Maximum height of structures shall be 35 feet. ~~However, the height of a structure meeting the minimum roof pitch requirements of subsection 48-370(d) shall be allowed a maximum total height of 42 feet.~~ However, the maximum height of a structure may be increased to 42 feet if the structure utilizes an 8/12 roof pitch as specified in the Town of Nags Head Residential Design Guidelines. For *large residential dwellings*, height shall be regulated in accordance with section 48-370 (d).

PART IX. That **Sec. 48-405. CR Commercial Residential District** (b) be amended as follows:

~~(1) Single-family dwelling units and duplexes, subject to dimensional requirements of R-3 district, except for minimum lot width. Single-family dwellings and duplexes containing five bedrooms shall be subject to the applicable requirements specified in section 48-370.~~

- (1)
- (2) Municipally owned public access facilities.
- (3) Restaurants.
- (4) Customary accessory uses and structures, including private swimming pools, minor communication towers, dish antennas, roof top wind energy facilities, vertical axis wind energy facilities and home occupations.
- (5) Large residential dwellings, subject to other requirements of this chapter and provided that all the conditions are met as specified in [section 48-370](#).

Part X. That **48-405. CR Commercial Residential District** (d) be amended as follows:

- (5) The minimum width of the side yards shall be eight feet for single-family, duplex and commercial development. In the case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than 15 feet for commercial development

and 12 feet for single-family and duplex use for lots less than 10,000 square feet in lot area and 60 feet or less in lot width. For *large residential dwellings*, the minimum width of the side yard shall be regulated in accordance with section 48-370 (d).

- (8) Maximum height of structures shall be 35 feet. ~~However, the height of a structure meeting the minimum roof pitch requirements of subsection 48-370(d) shall be allowed a maximum total height of 42 feet.~~ However, the maximum height of a structure may be increased to 42 feet if the structure utilizes an 8/12 roof pitch as specified in the Town of Nags Head Residential Design Guidelines. For *large residential dwellings*, height shall be regulated in accordance with section 48-370 (d).

PART XI. That **Sec. 48-406. C-1 Neighborhood Commercial District** (b) be amended as follows:

- ~~(1) Single-family dwelling units and duplexes, subject to dimensional requirements of R-3 district, except for minimum lot width. Single-family dwellings and duplexes containing five bedrooms shall be subject to the applicable requirements specified in section 48-370.~~

(1)

- (2) Banking institution.
- (3) Barbershop and beauty parlor.
- (4) Drugstore.
- (5) Food market.
- (6) Post office.
- (7) Laundry and dry cleaning pickup stations and laundromats.
- (8) Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas and home occupations.
- (9) Large residential dwellings, subject to other requirements of this chapter and provided that all the conditions are met as specified in [section 48-370](#).

Part XII. That **48-406. C-1 Neighborhood Commercial District** (d) be amended as follows:

- (5) Side yards shall total at least 15 feet in width. Every building must be set back no less than five feet from the side property line. The side yard on either side may be of any size, provided that neither side yard is less than five feet in width and further provided that the sum of the two side yards equals at least 15 feet in width. In the case of a corner lot, to ensure adequate sight clearance, the side yard adjacent to the right-of-way shall be no less than 15 feet. For *large residential dwellings*, the minimum width of the side yard shall be regulated in accordance with section 48-370 (d).

- (7) Maximum height of structures shall be 35 feet. ~~However, the height of a structure meeting the minimum roof pitch requirements of subsection 48-~~

~~370(d) shall be allowed a maximum total height of 42 feet.~~ However, the maximum height of a structure may be increased to 42 feet if the structure utilizes an 8/12 roof pitch as specified in the Town of Nags Head Residential Design Guidelines. For *large residential dwellings*, height shall be regulated in accordance with section 48-370 (d).

PART XIII. That **Sec. 48-407. C-2 General Commercial District** (b) be amended as follows:

~~(4) Single-family dwelling units and duplexes, subject to dimensional requirements of R-3 district, except for minimum lot width. Single-family dwellings and duplexes containing five bedrooms shall be subject to the applicable requirements specified in section 48-370.~~

(4)

(5) Estuarine bulkheads.

(6) Customary accessory uses and structures, including private swimming pools, private docks, minor communication towers, dish antennas and home occupations, vertical axis wind energy facilities and roof top wind energy facilities.

(7) Large residential dwellings, subject to other requirements of this chapter and provided that all the conditions are met as specified in [section 48-370](#).

Part XIV. That **48-407. C-2 General Commercial District** (d) be amended as follows:

(5) The minimum width of the side yards shall be eight feet for residential development (single-family and duplex). Side yards shall total at least 15 feet in width for commercial development. Every commercial building must be set back no less than five feet from a side property line. The side yard on either side may be of any size, provided that neither side yard is less than five feet in width and further provided that the sum of the two side yards equals at least 15 feet in width. In the case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be no less than 15 feet, except in the case of pre-existing nonconforming lots for single-family and duplex use that are less than 10,000 square feet in lot area and 60 feet or less in lot width, in which case the minimum setback shall be 12 feet. For *large residential dwellings*, the minimum width of the side yard shall be regulated in accordance with section 48-370 (d).

(7) Maximum height of structures shall be 35 feet. ~~However, the height of a structure meeting the minimum roof pitch requirements of subsection 48-370(d) shall be allowed a maximum total height of 42 feet.~~ However, the maximum height of a structure may be increased to 42 feet if the structure utilizes an 8/12 roof pitch as specified in the Town of Nags Head Residential Design Guidelines. For *large residential dwellings*, height shall be regulated in accordance with section 48-370 (d).

PART XV. That **Sec. 48-408. C-4 Village Commercial District** (b) be amended as follows:

- (1) *Single-family dwellings* and *duplexes* (not to include *trailers* and *mobile homes*). ~~Single-family dwellings and duplexes containing five bedrooms shall be subject to the applicable requirements specified in section 48-370.~~
- (8) *Large Residential Dwellings*, subject to other requirements of this chapter and provided that all the conditions are met as specified in section 48-370.

Part XVI. That **Sec. 48-408. C-4 Village Commercial District** (d) be amended as follows:

- (5) The minimum width of the side yard shall be ten feet. For corner lots, to ensure adequate sight clearance, the side yard adjacent to the right-of-way shall be not less than 15 feet. For *large residential dwellings*, the minimum width of the side yard shall be regulated in accordance with section 48-370 (d).
- (8) Maximum height of structures shall be 35 feet. ~~However, the height of a structure meeting the minimum roof pitch requirements of subsection 48-370(d) shall be allowed a maximum total height of 42 feet.~~ However, the maximum height of a structure may be increased to 42 feet if the structure utilizes an 8/12 roof pitch as specified in the Town of Nags Head Residential Design Guidelines. For *large residential dwellings*, height shall be regulated in accordance with section 48-370 (d).

PART XVII. That **Sec. 48-443. SPD-20 Special Planned Development District** (b) be amended as follows:

- ~~(1) *Single-family dwellings*. Single-family dwellings and duplexes containing five bedrooms shall be subject to the applicable requirements specified in section 48-370.~~

(1)

———(8) *Large Residential Dwellings*, subject to other requirements of this chapter and provided that all the conditions are met as specified in section 48-370.

Part XVIII. That **48-443. SPD-20 Special Planned Development District** (d) be amended as follows:

- (5) The minimum width of the side yard shall be 12 feet. In the case of a corner lot, to ensure adequate sight clearance, the minimum width of the side yard adjacent to the right-of-way shall be not less than 15 feet. For *large residential dwellings*, the minimum width of the side yard shall be regulated in accordance with section 48-370 (d).
- (7) Maximum height of structures shall be 35 feet. ~~However, the height of a structure meeting the minimum roof pitch requirements of subsection 48-370(d) shall be allowed a maximum total height of 42 feet.~~ However, the maximum height of a structure may be increased to 42 feet if the structure utilizes an 8/12 roof pitch as specified in the Town of Nags Head Residential Design Guidelines. For *large residential dwellings*, height shall be regulated in accordance with section 48-370 (d).

PART XIX. That **Sec. 48-444. Ocean and Sound Waters District** (b) be amended as follows:

~~(3) Detached *single-family dwellings* (not including *mobile homes* or floating homes), provided further that such dwellings meet all the dimensional requirements of the R-1 low-density residential district. **Single-family dwellings containing five bedrooms shall be subject to the applicable requirements specified in section 48-370.**~~

~~(3)~~

(6) *Large Residential Dwellings*, subject to other requirements of this chapter and provided that all the conditions are met as specified in section 48-370.

PART XX. That **Sec. 48-447. - Soundside Residential Dwelling Overlay District** be amended as follows.

(a) Intent. The Soundside Residential Dwelling Overlay District is hereby established. The purpose of this overlay district is to set forth regulations that will preserve the unique character and historical significance of the residential enclave located in the vicinity of the unimproved portion of Soundside Road and Chowan Avenue.

This area was one of the earliest developed areas of the town. Historically, it was in close proximity to the ferry landing point for many of the early visitors to Nags Head and was one of the first locations for summer houses before property owners began developing on the oceanfront. Many of the early cottages in this area were small, one to one and one-half story homes that resembled the cottages still present today in the Nags Head Historic Cottage Row. Although this area has experienced some redevelopment since its inception, many of the existing houses retain the character of the original development. This is reflected in the present architectural styles as well as the low-density, informal landscape which maintains the area's natural topography and vegetation. For the aforementioned reasons, the Town of Nags Head recognizes this area as one of unique significance, and consequently wishes to take measures to preserve its existing character. Specifically, the intent of this section is to achieve the following objectives:

- (1) To maintain and promote residential development that patterns the architecture and building designs of the current and former cottages of this area.
 - (2) To minimize land disturbance and preserve natural topography and vegetation.
 - (3) To maintain a low-density character while still allowing reasonable use of property.
 - (4) To establish minimum street and driveway standards to accommodate town service vehicles and local traffic while reducing impervious surfaces.
- (b) Applicability. The provisions of this section shall apply to all areas designated as the Soundside Residential Dwelling Overlay District as defined on the

official Zoning Map of the Town of Nags Head, North Carolina. This area generally includes parcels within the R-2 Medium Density Residential zoning district abutting the unimproved portions of Soundside Road and Chowan Avenue. The Soundside Residential Dwelling Overlay District is bounded by the Old Nags Head Cove subdivision to the south and east, the Southridge subdivision and the Nags Head Hotel Property Lots to the north, and the Roanoke Sound to the west. Where the provisions of this section conflict with the provisions of Section 48-403 R-2 Medium Density Residential District, the provisions of this section shall apply.

- (c) Permitted uses. Permitted uses in the Soundside Residential Dwelling Overlay District include those uses set forth in section 48-403, R-2 Medium Density Residential District, subsection (b)(1), subsection (b)(3), and subsection (b)(6). Large residential dwellings permitted under section 48-403 (b)(6) shall not exceed an enclosed habitable living space of 4,200 square ~~feet or a total of five bedrooms~~feet, and the minimum lot area requirement for the permitting of large residential dwellings shall be 24,000 square feet. The customary accessory uses and structures permitted in section 48-403, R-2 Medium Density Residential District, subsection (b)(5) shall be allowed with the exclusion of minor communication towers.
- (d) Dimensional requirements. In addition to the dimensional requirements set forth in section 48-403, R-2 Medium Density Residential District, subsection (d), lot coverage for lots located in the Soundside Residential Dwelling Overlay District shall not exceed 25 percent. Private access easements, a maximum of 20 feet for two-way and 14 feet for one-way improved gravel surface area, shall be excluded from individual lot coverage calculations provided such access is not used for parking as required by section 48-167.
- (e) Site design. The following design criteria shall be satisfied in order to protect the unique natural features and vegetation in the Soundside Residential Dwelling Overlay District:
 - (1) Land disturbing activity and the removal of trees greater than four inches in diameter measured at one foot above the ground shall be limited to the following areas:
 - a. Within the proposed building footprint, including decks and a ten-foot perimeter around the principal building and its accessory buildings;
 - b. Within vehicular accessways;
 - c. Within the septic tank nitrification field and an area around such field as determined by the county department of environmental health as to ensure proper functioning of the septic system; and
 - d. Within areas where land disturbing activities have created slopes in excess of three to one, the finished topography shall be aligned with and graded to existing neighboring dunes in such a manner as to minimize erosion.
 - (2) The use of bulkheads shall be limited to vehicular accessways, decorative landscaping and estuarine bulkheads only.
 - (3) A building permit shall be required prior to any building site preparation.

- (4) Prior to any tree removal or earth disturbing activity, the perimeter of all proposed structures, accessways and drainfield areas shall be staked on the lot and inspected by the zoning administrator.
 - (5) Unimproved gravel driveways and gravel aprons shall be permitted.
 - (6) All utilities shall be placed underground.
- (f) Building design. In addition to the applicable standards of section 48-370, residential design standards, the following standards are encouraged for ~~shall apply to~~ all single-family dwellings:
- (1) Residential structures that have a ground floor elevation that is less than four feet above the required base flood elevation (BFE) ~~shall~~ should be piling supported. Ground floor enclosures of a piling supported residential structure ~~shall~~ should not exceed 300 square feet of enclosed storage.
 - (2) Residential structures ~~shall~~ should not contain more than two habitable floors.
 - (3) Residential structures are encouraged to ~~shall~~ achieve a minimum total of 100 points in accordance with the Nags Head Residential Design Manual. ~~based on the residential architectural point system established in section 48-370, residential design standards, subsection (d).~~ Fifty points of the required minimum ~~must be achieved~~ is recommended with the utilization of covered porches to achieve the desired architecture of the district.
 - (4) Roof pitch ~~shall~~ should not exceed 12/12.
 - (5) The following siding materials are encouraged for vertical wall siding:
 - a. Wood shingles. Wood material should be red cedar, white cedar, juniper, or pressure treated pine.
 - b. Wood lap board.
 - c. Vertical board and batten siding.
 - d. T-111.
 - (6) Height and the minimum side yard for large residential dwellings shall be regulated in accordance with section 48-370 (d).

PART XXI. That **Sec. 48-371. - Commercial design standards.** be amended as follows.

- (a) Intent. The purpose of establishing this section is to set forth a comprehensive set of regulations designed to protect and promote the unique and historical architectural elements held to be valued as an integral part of the town image and to ensure that future commercial development is compatible with its natural and developed environments.
- (b) Architectural requirements. Except for the following uses, these provisions shall apply to all principal structures for permitted and conditional uses listed in the Commercial Residential (CR) District, Neighborhood Commercial (C-1) District, General Commercial (C-2) District, Village Commercial (C-4) District,

and The Village at Nags Head SPD-C Commercial 1, Commercial 2, and Hotel zoning districts:

- (1) Fishing piers
- (2) Public utility facilities
- (3) Single-family dwellings and duplexes
- (4) Religious complexes
- (5) Elementary schools
- (6) Farmers markets

All existing principal structures located in the Commercial Residential (CR) District, Neighborhood Commercial (C-1) District, General Commercial (C-2) District, Village Commercial (C-4) District, and The Village at Nags Head SPD-C Commercial 1, Commercial 2, and Hotel zoning districts, except for the uses listed above, which do not meet the requirements of this section shall be regulated in accordance with chapter 48, Article IV.

(c) Commercial building size categories.

- (1) Commercial building category #1. All principal buildings as enumerated in subsection (b) of this section, which have a ground floor heated area of less than 15,000 square feet shall be included in this category. Unless exempted by subsection (b) of this section, buildings in this category shall achieve a total score of 125 based on the residential architectural criteria as set forth in subsection (d) of this section and further defined in the "Town of Nags Head Residential Design ~~Manual~~ Guidelines (see Appendix A)." The following exceptions/modifications to the residential design standards shall be applied to commercial buildings:

~~a. Points will not be awarded for additional parking spaces above the minimum number of required spaces.~~

~~a~~b. A porch meeting the definition of ground floor will be awarded points as a first floor porch.

~~b~~e. On the front and each side of the building windows shall comprise not less than ten percent and not more than 40 percent of each building vertical wall area. For metal and glass storefront and curtain wall systems, windows shall be no wider than four feet and not taller than eight feet without having at least a 12-inch separation between windows. Doors shall be no wider than six feet and no taller than eight feet without having at least a 12-inch separation between windows and doors.

~~c~~d. Buildings shall use a pitched roof with a pitch of four in 12 or greater. There shall be no vertical parapet walls.

- (2) Commercial building category #2. All principal buildings as enumerated in subsection (b) of this section which have a ground floor heated area that is 15,000 square feet or greater shall be included in this category; with the exception of automobile service stations and repair garages, which shall be included in this category regardless of their ground floor heated living area. Unless exempted by subsection (b) of this section,

principal buildings in this category shall comply with one of the following three requirements:

- a. The requirements of commercial building category #1 as enumerated in section 48-371 (c)(1).
 - b. The requirements set forth in section 48-371 (d) alternative commercial exterior design.
 - c. Automobile service stations and repair garages shall comply with either the requirements of section 48-371(c)(1) or section 48-371(d) subsections (1), (2)c., (2)d., and (3). Automobile service stations and repair garages that comply with section 48-371(d) subsections (1), (2)c., (2)d., and (3) shall also incorporate a covered porch, portico, or covered entry feature over the main customer entrance. This entrance feature shall be a minimum of four feet in depth from the exterior wall to the outer edge of column, shall be a minimum of eight feet wide, and shall be supported by columns no smaller than eight inches wide.
- (d) Alternative commercial exterior design. The purpose of this section is to establish a set of alternative architectural requirements for structures 15,000 square feet or greater in ground floor heated area. These requirements are included to create a suitable set of architectural standards for larger buildings that use and benefit from "flat roof" construction. Buildings for which alternative commercial exterior design is applied shall comply with all requirements listed in subsections (d)(1)—(3) of this section. Unless otherwise defined or specified in this section, all architectural definitions and specifications listed in this section shall be consistent with those features defined in the "Town of Nags Head Residential Design ~~Manual~~ Guidelines (see Appendix A)."
- (1) All visible wall siding materials shall consist of one or more of the following materials:
 - a. Cedar shingles
 - b. Lap siding
 - c. Brick
 - d. Vertical board and batten
 - e. Stucco
 - f. Not more than ten percent metal material in accordance with section 48-83.
 - (2) The following standards shall apply to the building facade(s):
 - a. The entire front building facade (front building elevation) shall incorporate a first floor porch that is a minimum of eight feet in depth from the exterior wall to the outer edge of column and supported by columns no smaller than eight inches wide and not more than 16 feet apart. Additionally the porch shall be no more than 12 feet tall from porch floor to porch ceiling. The roof over

the porch shall have a roof pitch of no less than four in 12 inches and not more than 12 in 12.

- b. On the front and each side of the building windows shall comprise not less than ten percent and not more than 40 percent of each building vertical wall area. The building wall area used to determine window area shall be the area from floor to the top of wall at roof structure bearing. For metal and glass storefront and curtain wall systems, windows shall be no wider than four feet and not taller than eight feet without having at least a 12-inch separation between windows. Doors shall be no wider than six feet and not taller than eight feet without having at least a 12-inch separation between windows and doors.
- c. Buildings not having a full, pitched roof with a pitch of four in 12 or greater, shall have roof facades or mansards as follows: Building elevations must have a roof facade area and height for a minimum of 40 percent of the entire building facade area and height. The building facade used to determine roof facade area and height shall be from the floor to the top of wall at roof structure bearing. Roof facade pitches shall be no less than four in 12 and no more than 12 in 12 on facades facing a public right-of-way. Roof facade pitches shall be no less than 18 in 12 on elevations not facing a public right-of-way. There shall be no vertical parapet walls above the roof structure bearing.
- d. Wall elevations and roofs greater than 50 horizontal feet in length shall have no more than 40 horizontal feet without a roof variation. Roof variations may consist of dormers, coastal watch towers, bumpouts, or entrance features in the "coastal" or "Old Nags Head" style as described in the Nags Head Residential Design ~~Manual~~ Guidelines (see Appendix A).

PART XXII. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART XXIII. This ordinance shall be in full force and effect from and after the _____ day of _____, **2015**.

Robert C. Edwards, Mayor

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: _____