



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

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-174, the Town of Nags Head (the "Town") may enact and amend ordinance provisions 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, pursuant to N.C.G.S. 160A-205 the Town may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to use the State's ocean beaches; may regulate, restrict, or prohibit the placement, maintenance, location, or use of equipment, personal property, or debris upon the State's ocean beaches; and may otherwise enforce any ordinance adopted pursuant to this section or any other provision of law upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries to the same extent that a city may enforce ordinances within the city's jurisdictional boundaries; and

WHEREAS, pursuant to N.C.G.S. 160A-303.1, 160A-176.1 and 160A-176.2 the Town may regulate littering, trash disposal and the abandonment of personal property within the Town, on the ocean beaches of the Town and within the Atlantic Ocean.

WHEREAS, the Town further finds that in accordance with the findings above it 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 Code of Ordinances (the "Town Code") 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 ellipses ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Town Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina:

PART I. That the Town Code, is hereby amended by adding a section, to be numbered Town Code Sec. 8-8. Unattended and unsafe equipment, personal property and debris on the ocean beach prohibited., which such section reads as follows:

(a) It shall be prohibited for any person to leave unattended equipment, personal property, or debris, including, but not limited to, beach tents, canopies, umbrellas, awnings, chairs, and sporting nets, on the ocean beaches of the Town between 8 p.m. and 7 a.m. daily.

(b) It shall be prohibited for any person to place any item on the beach which:

1. Unreasonably restricts, prevents or disrupts the passage of public works, emergency or ocean rescue vehicles, or the public; or
2. Impedes or obstructs the line of sight to the Atlantic Ocean from lifeguard stands or other surveillance areas used by ocean rescue personnel.

(c) Beach tents, canopies, and awnings shall not be greater than 12 feet by 12 feet in area or higher than 9 feet above the surface of the ocean beach when erected.

(d) Beach tents, canopies, and awnings shall not be tied together and shall be placed no closer than 10 feet apart.

~~(e)~~(e) *Remedies.* Violations of this section shall be subject to the penalties described in Town Code section 1-6 (b). Additionally, violations of this section shall result in the classification of unattended equipment, personal property or debris as abandoned property, litter or unsafe property and said property may be removed by the Town.

~~(f)~~(f) *Exceptions.* The town manager may grant exceptions to this section for limited duration special events or other reasons in the general public interest upon presentation of a written request outlining the reasons for the exception and providing a plan for addressing safety issues associated with the request. This section shall not be applicable to development, beach restoration or nourishment, construction or similar activities occurring upon the ocean beach pursuant to and in compliance with all necessary permits issued by the local, state and/or federal agencies having jurisdiction over the work. This section shall not be construed to apply to the removal of permanent residential or commercial structures and appurtenances thereto.


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 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 amendment shall be in full force and effect from and after the 6th day of **June 2018**.


Benjamin Cahoon, Mayor

ATTEST:

Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: June 6, 2018

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS _____