

# ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

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**PART I. GENERALLY**

**SECTION 9.1 TITLE; ENACTMENT; PURPOSE.**

**9.1.1.** This Article shall be known as “The Village at Nags Head SPD-C Zoning Ordinance.”

**9.1.2.** In accordance with the provisions of G.S. 160D-201 et seq., and the original zoning ordinance, , an application was made for the rezoning of approximately 410 acres of land known as the Epstein Property and defined as described therein as "The Village at Nags Head." The Planning Board and the Board of Commissioners found that the application complied with the terms of the zoning ordinance and the Board of Commissioners found this as a fact. Therefore, is created a special planned development-community district pursuant to the terms of this article which shall be designated as "The Village at Nags Head."

**SECTION 9.2 INTENT; RELATIONSHIP TO OTHER ORDINANCES.**

**9.2.1. Intent.**

The following general provisions are intended solely to regulate existing special planned development-community (SPD-C) districts and to prohibit the creation of any new SPD-C districts subsequent to August 4, 1993. Within the existing SPD-C district created prior to August 4, 1993, regulations adapted to unified planning and development are intended to accomplish the purposes of zoning and other applicable regulations to the same degree as in districts in which conventional regulations are intended to control development on a lot-by-lot basis. This procedure is intended to promote economical and efficient land use, a higher level of amenities, appropriate and harmonious variety in physical development, design, and an improved living and working environment.

**9.2.2. Relation of SPD-C Regulations to General Zoning, Subdivision, or Other Regulations.**

The provisions which follow shall apply generally to the regulation of the SPD-C district. Where there are conflicts between these special provisions and general zoning, subdivision or other regulations or requirements, these special regulations shall apply in the SPD-C district unless the Board of Commissioners find, in the particular case:

**9.2.2.1.** Provisions in this section do not serve public purposes to a degree at least equivalent to this UDO or other regulations or requirements; or

**9.2.2.2.** Actions, designs or solutions proposed by the applicant, although literally in accord with these special regulations or general regulations, do not satisfy public purposes to at least an equivalent degree.

Except as indicated in this subsection 9.2.2, procedures and requirements set forth in this section shall apply in the SPD-C district and to issuance of any permits required. When a particular element is not addressed in the SPD-C regulations, the regulations of this UDO shall apply.

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## SECTION 9.3 OFFICIAL MAPS.

**9.3.1.** The maps contained in the Master Plan for The Village at Nags Head, prepared by Jerry Turner and Associates, and which are labeled as "The Village at Nags Head Master Land Use Plan," "The Transportation and Utilities Plan," "The Recreation and Open Space Map," and the "Illustrative Master Plan" shall be the official maps for the SPD-C district. Such maps are on file in the Town Hall bearing the signature of the Mayor and attested by the Town Clerk and shall be the official zoning maps of such special planned development-community district known as The Village at Nags Head.

**9.3.2.** The plat of the outer boundaries of The Village at Nags Head are those boundaries as shown on a plat prepared by Quible & Associates, Inc., and duly recorded in the Dare County Register of Deeds at Plat Cabinet A, page 299, a copy of which is also on file at the Town Hall and labeled "Survey Plat for Nags Head Village."

## SECTION 9.4 PROCEDURE.

### ***9.4.1. Effect of Approval of SPD-C Zoning.***

Within the boundaries of the SPD-C district, the provisions and development standards of this section shall apply as well as any additional requirements or regulations which may be made a part of an approved development plan for such district by the Board of Commissioners. Any deviation from or failure to comply with such a requirement shall be considered to be a violation of this UDO and shall be treated under the provisions of Section 1.10, Violation of UDO Regulations.

### ***9.4.2. Site Development Plans.***

No site plan for a proposed use within any zone or district of the SPD-community district shall be accepted for review by the Town unless and until the Board of Commissioners has reviewed proposed rules and regulations governing development in that zone or district and has officially adopted those specific rules and regulations as a part of the SPD-community district section. No building permit shall be issued in the SPD-C district unless and until the Planning Board and Board of Commissioners have approved site development plans and reports for the development as a whole or stages or portions of it which are satisfactory to them in relation to total development. No structure or use other than as indicated in approved site development plans and reports shall be permitted. Detailed site development plans for all or any part of the SPD-C district shall be submitted, reviewed and subsequently amended in accordance with the procedures established for site plan review in Article 4, Development Review Process of this UDO. Each site development plan shall:

**9.4.2.1.** Be in accordance with the approved development plan.

**9.4.2.2.** Include all the information required for the submission of subdivision plats.

**9.4.2.3.** Show the existing topography and proposed grading at the site at contour intervals of not more than two (2) feet, including existing vegetation, natural features, major dunes, areas liable to flooding and shore conditions.

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- 9.4.2.4.** Include a grading plan showing proposed water runoff and plans for siltation and erosion control, both during and after construction.
- 9.4.2.5.** Show the location, height, ground coverage and use of all structures and the location and areas of open spaces, parking areas and areas dedicated to public use.
- 9.4.2.6.** Show all easements and rights-of-way existing or proposed.
- 9.4.2.7.** Show the location, dimension and grades of all roads, streets and driveways, parking facilities, points of access to surrounding streets and pedestrian walks and highways.
- 9.4.2.8.** Indicate, for each residential structure, the number and type of dwelling units classified by the number of bedrooms and the total floor area to be used for commercial purposes.
- 9.4.2.9.** Indicate the floor area of all nonresidential buildings.
- 9.4.2.10.** Provide a landscaping and screening plan, showing all manmade features, and the location, mature size and species of all planting materials.
- 9.4.2.11.** Provide an exterior lighting plan.
- 9.4.2.12.** Show the location of all parks and other community recreational facilities, indicating the location and use of all such land which will be dedicated to public use.
- 9.4.2.13.** Include documents indicating the manner in which any land or facility intended for public or quasi-public use, but not proposed to be in public ownership, will be held, owned and maintained in perpetuity for the indicated purposes.

### **9.4.3. Amendment of Development Plan.**

A proposal for amendment of a development plan for the SPD-C district which does not change the overall density of the district nor increase the amount of approved commercial acreage, nor change the boundaries of the area zoned SPD-C may be approved by the Board of Commissioners after submission for review and recommendation to the Planning Board. Any other amendments to a development plan for the SPD-C district shall be treated under the procedures of Section 3.5, UDO Text Amendment/Zoning Map Amendment of this UDO.

### **SECTION 9.5 RESERVED.**

## **PART II. ESTABLISHMENT OF DISTRICTS**

### **SECTION 9.6 GENERALLY.**

The zoning districts into which this special planned development-community district are divided are those districts shown on the official master land use plan map for The Village at Nags Head, referred to as the "Official Zoning Map for The Village at Nags Head." Subsequent to August 4, 1993, the creation of any new SPD-C districts shall be prohibited.

### **SECTION 9.7 RULES GOVERNING THE INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists with respect to the boundaries of any of the zoning districts, as shown on the "Official Zoning Map for The Village at Nags Head," the following rules shall apply:

**9.7.1.** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

**9.7.2.** Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

**9.7.3.** Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 9.7.1 and 9.7.2 of this section, the Board of Adjustment shall interpret the district boundaries.

### **SECTION 9.8 – 9.10 RESERVED.**

**PART III. APPLICATION OF REGULATIONS**

**SECTION 9.11 TERRITORIAL JURISDICTION.**

The provisions of this article shall apply to all lands, structures and uses thereon, within areas designated on The Village at Nags Head Master Plan. If a particular item is not addressed in this article, the regulations of this UDO or The Village at Nags Head Master Plan shall apply.

**SECTION 9.12 LAND USE REGULATIONS.**

The land use categories for The Village at Nags Head have a traditional planning hierarchy of classifications in a reverse pyramid structure as follows:

- Hotel district
- Commercial 1 district
- Beach and tennis club district
- Multi-family home district
- Attached single-family home district
- Detached single-family home district

Any proposed changes to land use district classifications assigned to properties in the Village at Nags Head SPD-C district shall follow the same procedure as prescribed under Section 3.5, UDO Text Amendment/Zoning Map Amendment of this UDO for the consideration of amendments to the zoning map.

**SECTION 9.13 – 9.15 RESERVED.**



**PART IV. GENERAL STANDARDS AND REGULATIONS**

**SECTION 9.16 DEVELOPMENT STANDARDS AND REQUIREMENTS.**

Within the SPD-C District, the following development standards and requirements shall apply:

**9.16.1.** Not less than twenty (20) percent of the total acreage of the SPD-C district shall be designated as common open space. Common open space shall not include any land covered by streets or parking areas or residential or commercial buildings but may include unimproved lands, required buffers or setbacks and common facilities such as swimming pools and tennis courts. In addition, a golf course proposed to be constructed, maintained and operated in private ownership may be included as a component of the required twenty (20) percent of "common open space," provided that the land to be devoted to golf course use shall be described in an easement to be granted to and accepted by the Town, pursuant to G.S. 160D-1301 - 160D-1307, requiring the land to remain in perpetuity as open space as defined in G.S. 160D-1307. Such easement, however, shall not preclude the construction and use of a clubhouse, maintenance building, and other structures customarily associated with the operation of a golf course, but the land covered by such structures shall be excluded from the computation of open space.

**9.16.2.** Not less than forty (40) percent of the dwelling units within the SPD-C district shall be detached single-family dwellings.

**9.16.3.** Not more than thirty-five (35) percent of the dwelling units within the SPD-C district may be two-family, townhouses and/or multifamily dwellings being no more than one hundred forty (140) feet in length, more than forty-eight (48) feet in width, or more than thirty-five (35) feet in height.

**9.16.4.** Not more than twenty-five (25) percent of the dwelling units within the SPD-C district may be multifamily dwellings other than those specified in subsection 9.16.3 of this section.

**9.16.5.** The overall dwelling unit density for any SPD-C district shall not exceed six (6) dwelling units per acre.

**9.16.6.** Permitted and special uses in the C-2 general commercial district may be approved as part of the total development plan, provided that:

**9.16.6.1.** No more than twelve (12) percent of the total SPD-C district acreage is devoted to commercial use.

**9.16.6.2.** No commercial use shall be located within five hundred (500) feet of any residential district not a part of the SPD-C district.

**9.16.6.3.** All commercial uses shall comply with Article 10, Performance Standards.

**9.16.6.4.** No part of the area shown on the development plan as commercial acreage shall be included in the computation of residential density for the total SPD-C district.

**9.16.6.5.** Primary vehicular access shall be from a public thoroughfare and shall be designed to minimize conflict with the flow of traffic, to reduce congestion and avoid potential hazards for vehicles and pedestrians.

**SECTION 9.17 TRANSPORTATION STANDARDS.**

**9.17.1. US 158 (Major Road).**

**9.17.1.1. Purpose.** A major thoroughfare for north/south through traffic. Entrance and exit from abutting commercial and office districts.

**9.17.1.2. Width of Right-of-Way.** State department of transportation standard.

**9.17.1.3. Paving width.** State department of transportation standard.

**9.17.1.4. Parking.** Not allowed.

**9.17.1.5. Building Setback Lines.**

**9.17.1.5.1.** Commercial: 45 feet.

**9.17.1.5.2.** Office: 45 feet.

**9.17.1.5.3.** Residential: 40 feet.

**9.17.2. Village Parkway (Collector).**

**9.17.2.1. Purpose.** To allow vehicular access from US 158 to local and loop streets.

**9.17.2.2. Width of Right-of-Way.** 60 feet minimum.

**9.17.2.3. Paving Width.** Minimum 24-foot paved surface, with two lanes. Each lane, 12 feet wide when abutting and 14 feet when a median occurs.

**9.17.2.4. Parking.** Not allowed.

**9.17.2.5. Sidewalks.** A minimum five feet wide and detached from street on one side of the Village Parkway. The requirement for sidewalks shall not be applicable to Seachase Drive, Links Drive, or Bay Meadow Drive west of US 158.

**9.17.2.6. Planting Strip.** Planting islands occur in medians.

**9.17.2.7. Building Setback Lines.** A minimum 30 feet from right-of-way.

**9.17.3. NC 12 (Collector).**

**9.17.3.1. Purpose.** To provide a north/south "beach" road with access to local streets. Entrance and exit from abutting commercial, residential, or hotel districts.

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**9.17.3.2. Width of Right-of-Way.** 60 feet minimum.

**9.17.3.3. Paving Width.** 24 feet paved surface with two 12-foot lanes.

**9.17.3.4. Sidewalks.** A minimum five feet wide and detached from curb when sidewalks are deemed necessary. The requirement for sidewalks shall not be applicable to Seachase Drive, Links Drive, or Bay Meadow Drive west of US 158.

**9.17.3.5. Building Setback Lines.** A minimum 30 feet from the right-of-way.

### **9.17.4. Loop Street (Interior Collector).**

**9.17.4.1. Purpose.** To provide vehicular traffic access off collector street and onto private drives or parking bays. Non-conducive to through traffic.

**9.17.4.2. Width of Right-of-Way.** 60 feet minimum.

**9.17.4.3. Paving Width.** 22 feet paved surface, with two lanes. Each lane shall be 11 feet wide when abutting and 12 feet wide when a median occurs.

**9.17.4.4. Sidewalks.** A minimum five feet wide and detached from street on one side of the loop street. The requirement for sidewalks shall not be applicable to Seachase Drive, Links Drive, or Bay Meadow Drive west of US 158.

**9.17.4.5. Planting Strip.** Planting islands occur in medians and shall be maintained by the Village at Nags Head Homeowners' Association.

**9.17.4.6. Building Setback Lines.** A minimum 20 feet from right-of-way.

### **9.17.5. Minor Street.**

**9.17.5.1. Purpose.** To provide vehicular traffic access to residentially zoned properties with a projected low traffic count, on which through traffic is discouraged and which is designed to serve no more than 50 dwelling units.

**9.17.5.2. Width of Right-of-Way.** 40 feet minimum.

**9.17.5.3. Paving Width.** 20 feet paved surface with two ten feet lanes. Cul-de-sac shall have a minimum 80-foot diameter or other appropriate turnaround.

**9.17.5.4. Sidewalks.** Not required.

## **SECTION 9.18 REGULATIONS GOVERNING SIGNS AND OUTDOOR ADVERTISING STRUCTURES.**

### **9.18.1. Generally.**

Unless otherwise specified in this section, the Village at Nags Head is covered by the Town sign provisions of Article 10, Part III, regulations governing signs and outdoor advertising structures.

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However, recognizing that special planned development community districts are exempt from certain other requirements of this UDO such as dimensional requirements, the Board of Commissioners shall have broad authority to vary or modify the requirements of Article 10, Part III, Sign Regulations. This proposal to vary or modify this article would include those sections of this article listed above plus the additional regulations listed below which would allow the spirit of Article 10, Part III to be observed and the purposes and intent of the special planned development-community district as contained in this article to be fulfilled.

### **9.18.2. Master Sign Plan; Submission Required.**

The Village at Nags Head shall be required to submit a master sign plan for approval by the Board of Commissioners before a building permit is issued and prior to any signs being erected. This master sign plan shall include drawings and specifications, dimensions and maps showing proposed locations and maintaining the proper site distance from street intersections as required by any Town ordinance, or the state department of transportation.

### **9.18.3. Commercial 1, Commercial 2, and Hotel District.**

**9.18.3.1.** See Article 10, Part III, Sign Regulations.

**9.18.3.2.** Only one main freestanding sign per Commercial 1 (shopping center) and Commercial 2 (commercial/office) district as designated in the Master Plan for the Village at Nags Head shall be permitted. This main sign shall be located permanently on the ground, and shall not exceed sixteen (16) feet in height above the street grade and no more than two hundred (200) square feet in area on each side. Main signs for the hotel districts will have a maximum height of sixteen (16) feet and be no more than thirty-two (32) square feet in area on each side.

**9.18.3.3.** Two (2) square feet of business sign area for each lineal foot of store frontage shall be allowed. Stores which are corner stores shall be entitled to the amount of lineal footage on both store fronts.

**9.18.3.4.** All signs placed against the exterior wall of the building shall not extend more than twenty-four (24) inches beyond the building wall surface, and no one sign shall exceed twenty (20) percent of the exposed finished wall surface. Freestanding buildings may have no more than three signs per building.

**9.18.3.5.** One under-canopy sign, visible from the sidewalk, will be permitted for each store, shop, office, or auxiliary facility, and shall not exceed five (5) square feet in area nor be a hazard to pedestrian traffic.

**9.18.3.6.** Directional signs not exceeding three (3) square feet in area and twenty-four (24) inches in height indicating entrances and exits to the building shall be permitted. Directional sign square footage shall not be included in gross sign area.

**9.18.4. Institutional District.**

**9.18.4.1.** One freestanding sign per lot, per road frontage not to exceed forty (40) square feet each.

**9.18.4.2.** Wall signs shall be permitted, not to exceed ten percent of the exposed finished wall surface.

**9.18.4.3.** Directional signs not exceeding three (3) square feet and twenty-four (24) inches in height indicating entrances and exits to the buildings shall be permitted.

**9.18.5. Detached Single-Family Homes, Attached Single-Family Homes, Townhouses, Multi-Family Homes and Recreational Districts.**

**9.18.5.1.** See Section 10.23, Signs Permitted in Residential Districts.

**9.18.5.2.** No sign may be located to impair traffic visibility as determined by a sight triangle as per the division of highway, state department of transportation, Subdivision Roads, Minimum Construction Standards, May 1, 1983; however, "island signs" are permitted in the right-of-way as long as the sight triangle is not obstructed.

**9.18.6. Tract Identification Signs.**

**9.18.6.1. Class 1, On-Premises Permanent Subdivision.**

**9.18.6.1.1.** Two neighborhood identification signs along US 158 are permitted for major entrances to the western area.

**9.18.6.1.2.** The area of copy for each identification sign may not exceed 16 square feet.

**9.18.6.1.3.** No extremity of a sign structure used to support or decorate tract identification signs shall exceed an area of 32 square feet.

**9.18.6.1.4.** The height of the sign shall not exceed four feet.

**9.18.6.2. Class 2, Community Subdivision.**

**9.18.6.2.1.** One identification sign along US 158 is permitted for major entrances.

**9.18.6.2.2.** The area of copy for each identification sign for major entrances may not exceed 30 square feet.

**9.18.6.2.3.** No extremity of a sign structure used to support or decorate community identification signs shall exceed an area of 300 square feet.

**9.18.6.2.4.** The height of the community sign shall not exceed eight feet.

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### **9.18.6.3. Class 3, Recreational.**

**9.18.6.3.1.** One identification sign for each recreational activity is permitted.

**9.18.6.3.2.** The identification sign for the Nags Head Golf Links shall be permitted along US 158 for the main entrance at West Seachase Drive with authorization from the property owner, Village POA.

**9.18.6.3.3.** The copy, structure, and height are the same as Class 1.

### **SECTION 9.19 – 9.20 RESERVED.**

**PART V. SCHEDULE OF DISTRICT REGULATIONS**

**SECTION 9.21 COMMERCIAL 1 DISTRICT.**

***9.21.1. Intent.***

The Commercial 1 district is established to provide for the proper grouping and development of commercial facilities to serve the entire community. The Commercial 1 district shall be at least fifteen (15) acres in area.

***9.21.2. Permitted Uses.***

Permitted uses in the Commercial 1 district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District.

***9.21.3. Enclosed Uses.***

Uses enclosed within a building, including office, institutional, recreation, retail, service, and wholesale, are permitted by right in the Commercial 1 district as provided in Section 9.36, Table of Uses and Activities in the SPD-C District. Manufacturing and/or repair shall be allowed if related to the principal uses listed in this subsection, but any such use involving manufacturing or repair shall be a maximum of 5,000 square feet in floor area.

***9.21.4. Exterior Storage and Sales Areas.***

Exterior storage and sales areas ancillary to the uses of subsection 9.21.3 shall be allowed if screened from exterior public rights-of-way on the rear and side property lines, and from adjacent residential areas.

***9.21.5. Incidental Manufacturing and/or Repair or Services.***

The uses permitted in this section for incidental manufacturing and/or repair or service are permitted only where no obnoxious odors, aromas, fumes, or loud noises, or other side effects created which would be detrimental to the health, safety, and welfare of the surrounding businesses.

***9.21.6. Special Uses.***

Special uses in the Commercial 1 district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District, subject to the requirements of this Commercial 1 district and additional regulations and requirements imposed by the Board of Commissioners in accordance with Section 3.8, Special Use Permits.

***9.21.7. General Provisions.***

All permitted and special uses within the Commercial 1 district unless otherwise specified shall comply with the provisions. In cases where these standards conflict with the standards contained in Article 10, Part VI, Commercial Design Standards, the more restrictive standard shall apply.

***9.21.7.1.*** A 12-foot wide paved access, which can be used as a fire lane, shall be provided along each of the four sides of buildings greater than 10,000 square feet. (Buildings less than 10,000 square feet are exempt from this requirement.) All other parking, off-street loading, and unloading areas shall be provided in accordance with Section 10.92, Street Access, Parking Lot

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

Design, and Pavement Standards of this UDO and shall be marked so as to be distinguished from driveways and parking areas. Required loading areas shall be designed so as not to block the fire lane.

**9.21.7.2.** Screened dumpsters shall be provided in accordance with Chapter 30 of the Town Code.

**9.21.7.3.** Accessible parking spaces as well as required loading and transition areas shall be provided in accordance with the effective version of the North Carolina Accessibility Code.

**9.21.7.4.** A sidewalk or boardwalk constructed to provide a grade separation from vehicular traffic of at least six (6) inches shall connect all commercial establishments within each building. Separate buildings shall be connected with pedestrian passageways that are striped when crossing traffic lanes.

**9.21.7.5.** A minimum walkway, pedestrian pavement in front of a retail store or group of stores greater than 10,000 square feet, shall be eight (8) feet wide. Where the building exceeds twenty (20) feet in height above the finished grade, the walkway shall be increased one (1) foot for each two (2) feet of additional building height. (Buildings less than 10,000 square feet shall be exempt from this requirement.)

**9.21.7.6.** No portion of any building shall be farther than two hundred fifty (250) feet or closer than fifty (50) feet to a fire hydrant.

**9.21.7.7.** Fire hydrants shall be protected from traffic in accordance with Section 20-1 of the Town Code and shall be marked with stripes on the pavement within the protected area.

**9.21.7.8.** If the structures are not considered sprinkler protected according to the applicable National Fire Protection Association standards, the fire flow of the hydrants serving or intended to serve the structures shall be tested at the developer's expense by the Town fire department or by an independent testing firm. If the test is conducted by an independent testing firm, it shall be made under the direct supervision of the Town fire chief or his designee. A fee, in accordance with the most recently adopted consolidated fee schedule, shall be paid by the developer. If the flow is found to be deficient according to the insurance service office standards applicable to the Town, the developer shall bring the fire flow up to the established requirements set out in the insurance service office standards. The fire flow test shall be made during the period of peak water demand as determined from water consumption data maintained by the Town water department.

**9.21.7.9.** Traffic shall be diverted upon entering the parking lot or speed bumps shall be provided to slow traffic.

**9.21.7.10.** A minimum of six hundred (600) feet of frontage along a street shall be required before two accessways are permitted to the same street. A minimum of nine hundred (900) feet of frontage shall be required before three accessways are permitted. No shopping center



shall have more than three accessways to one street. The accessways shall comply with the following standards:

**9.21.7.10.1.** Accessways shall not be less than thirty (30) feet or more than forty (40) feet in width at their intersection with the property line.

**9.21.7.10.2.** The principal accessways shall have an exit lane for left turns where permitted and an exit lane for right turns and one entrance lane. The lanes shall be appropriately marked as to exit and entrance.

**9.21.7.10.3.** At its intersection with the property line, an accessway shall not be less than one hundred (100) feet from another accessway or fifty (50) feet from a corner of the property. Notwithstanding, at least one accessway will be allowed for each shopping area.

**9.21.7.11.** Each shopping center with its buildings, parking lots and driveways shall be physically separated from each adjoining street by a curb or other suitable barrier to prevent unchanneled vehicular ingress or egress.

**9.21.7.12.** If the shopping center is to be constructed in progressive stages, no occupancy permit will be granted for any one stage until all site improvements and conditions assigned to the stage being constructed are completed.

**9.21.7.13.** Lighting in accordance with the Town lighting standards shall be installed in all parking and service areas.

**9.21.7.14.** A buffer shall be maintained along property lines abutting any neighboring lots not a part of the shopping center. The buffer shall be a fifty (50) foot wide grassed open space or a vegetative buffer of a minimum width of five (5) feet that will reach a minimum height of ten (10) Feet within five years.

**9.21.7.15.** Public restrooms shall be provided in a convenient and easily identifiable location at the developer's expense.

**9.21.7.16.** There shall be a minimum twenty (20) foot separation between detached buildings.

**9.21.7.16.1. Freestanding Buildings.** Separation between buildings or groups of buildings shall be a minimum of twenty (20) feet where buildings are side by side and have no natural lighting requirements in the space adjacent to the separation between buildings. Where buildings face one another, the minimum distance between the face of buildings, not inclusive of any canopy or overhangs, shall be thirty-five (35) feet, a minimum of a twenty (20) foot space must be left as access areas for fire trucks with a head clearance of at least sixteen (16) feet.

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

**9.21.7.16.2. Connected Buildings.** In order to provide fire protection for buildings which house a group of stores within one or more connected buildings, there shall be areas for fire protection so as to serve both the front and rear of such connecting buildings.

**9.21.7.17.** A pre-application conference shall be held between the Planning Board and the applicant.

### **9.21.8. Table of Development Standards.**

**9.21.8.1. Minimum Lot Area.** That area of land described as the district boundaries for Commercial 1. (The minimum area shall be 15 acres.)

**9.21.8.2. Minimum Front Yard.** 75 feet from the main complex or the easternmost portion thereof from US 158.

**9.21.8.3. Minimum Side Yard.** There is no minimum side yard required.

**9.21.8.4. Minimum Rear Yard.** Five (5) feet between the rear side of a building and the adjacent parking area.

**9.21.8.5. Maximum Lot Coverage.** Eighty (80 percent of the district area.

**9.21.8.6. Height Limitation.** Thirty-five (35) feet, except that a cupola or tower which serves as the focal point of the shopping center may be constructed not to exceed forty-five (45) feet in height.

**9.21.8.7. Parking Required.** Parking shall be provided in accordance with Article 10, Part II, Off-Street Parking and Loading Requirements of this UDO.

**9.21.8.8. Loading Space Required.** One (1) loading space for each 20,000 gross square feet of the building area of Commercial 1. A loading space is defined as being an unencumbered area 12 by 60 feet in area.

**9.21.8.9. Division of Ownership.** Nothing within the table of development standards of this article shall preclude a division of ownership of areas within the district, provided that the structures thereon are in compliance with the requirements of this article.

### **SECTION 9.22 COMMERCIAL 2 DISTRICT.**

#### **9.22.1. Intent.**

The Commercial 2 district is established to provide for the proper grouping and development of small, independently owned commercial facilities to serve the entire community. All Commercial 2 districts shall be at least five (5) acres in area. The Commercial 2 districts are those areas identified as the commercial/office areas on the Village at Nags Head Master Land Use Plan.

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

### **9.22.2. Permitted Uses.**

Permitted uses in the Commercial 2 district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District. Lots intended for SF #1, SF #2, or SF #3 uses as specified in Section 9.25, Detached Single-Family District, shall be designated on the plat of record.

### **9.22.3. Special Uses.**

Special uses in the Commercial 2 district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District, subject to the requirements of this Commercial 2 district and additional regulations and requirements imposed by the Board of Commissioners in accordance with Section 3.8, Special Use Permits.

### **9.22.4. Access Points.**

Accessways in the Commercial 2 district off US 158 shall be only where designated on the illustrative master plan. Each lot that fronts on either Mall Drive or Epstein Drive shall be entitled to one access (curb cut) onto either of those streets except where the Town has approved a unified access plan. When a unified access plan has been approved by the Town, access shall be in strict adherence with that approved access plan. All accessways shall be at least one hundred (100) feet from an intersection with NC 12 or US 158.

### **9.22.5. Dimensional Requirements.**

Dimensional requirements in the Commercial 2 district are as follows. In cases where these standards conflict with the standards contained in Article 10, Part VI, Commercial Design Standards, the more restrictive standard shall apply.

**9.22.5.1. Maximum Density.** Not Applicable.

#### **9.22.5.2. Coverage.**

**9.22.5.2.1. Maximum Building.** Thirty (30) percent.

**9.22.5.2.2. Maximum Parking.** Fifty (50) percent.

**9.22.5.2.3. Minimum Landscaped Space.** Twenty (20) percent. Landscaped space does not include parking, drives, or buildings, but does include walks, gazebos, fountains, plant material, other landscaping features, etc.

#### **9.22.5.3. Building Setback Requirements.**

**9.22.5.3.1.** A minimum of forty (40) feet from US 158 right-of-way.

**9.22.5.3.2.** A minimum of thirty (30) feet from NC 12 right-of-way.

**9.22.5.3.3.** A minimum of fifty (50) feet from residential districts.

**9.22.5.3.4.** A minimum of twenty-five (25) feet from side road rights-of-way.

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

NOTE: Ten (10) feet may be deducted from the minimum when the area is bermed and planted or solidly fenced. The height of the planting or fence shall be six (6) feet above the road's surface.

### **9.22.5.4. Building-to-Building Separation.**

**9.22.5.4.1.** A minimum of ten (10) feet separation between one-story structures.

**9.22.5.4.2.** A minimum of twenty (20) feet separation between two-story structures.

**9.22.5.4.3.** A minimum of thirty (30) feet separation between three-story structures.

**9.22.5.5. Building Height Limitation.** A maximum of thirty-five (35) feet.

**9.22.5.6. Building Size.** No single retail space, either freestanding or within an attached cluster, shall exceed 10,000 square feet in floor area.

### **9.22.6. Architectural.**

Each building cluster in the Commercial 2 district shall be architecturally compatible. A building cluster shall be a grouping of two or more businesses housed in either attached or detached structures in a definable district. Attaching will be encouraged.

### **9.22.7. Signage.**

There shall be a limitation on signage in the Commercial 2 district which will require architectural review committee approval for uniform district conformity and a building permit from the Town. (See Article 10, Part III of this UDO for the signage approval process.)

**9.22.7.1.** As an alternative to the Village Commercial 2 district sign, and applicable only to the Village Commercial 2 district, one freestanding sign may be located on-site, subject to the following criteria: It is the purpose of this section to permit an applicant an opportunity to erect one permanent freestanding sign on-site as long as specific architectural, site, and building design standards developed by the Town are adhered to. These standards are designed to preserve and promote open space on commercial sites, promote more landscaped area, reduce impervious surfaces, and to promote architectural and design standards that are indicative of our Nags Head heritage. A freestanding sign may be erected, subject to the following conditions:

**9.22.7.1.1.** The current Village C2 district sign shall be removed before a developer can erect a freestanding sign.

**9.22.7.1.2.** A freestanding sign shall not exceed ten (10) feet in height above street grade.

**9.22.7.1.3.** The freestanding sign shall require architectural review and approval by the Town Planning Board and the Board of Commissioners.

# ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

**9.22.7.1.4.** Only one (1) freestanding sign shall be allowed per site.

**9.22.7.1.5.** A developer shall be allowed one freestanding sign based on adherence to the development points listed below. The following development point system shall be used to determine the maximum allowable freestanding sign for a site.

**9.22.7.1.6.** A developer must meet the minimum number of required points for each section if a freestanding sign is to be allowed:

## SECTION I. BUILDING ARCHITECTURE.

The Town has a rich architectural history. A combination of certain design elements, i.e., wraparound porches, cedar shake shingles, and cupolas, have helped to define our area and are an integral part of what allows our community to stand out from the rest. By encouraging these architectural designs, we are not only promoting our heritage, we are preserving an aesthetic quality that has made our community a desirable place to live and vacation. (Construction specifications from the Residential Design Manual, Appendix B, as amended, shall be used as reference for the criteria below.)

**TABLE 9-1: BUILDING ARCHITECTURE DESIGN ELEMENTS**

Criteria	Development Points
1. A front porch along the entire front of the building or a wraparound porch along two sides of a building that is not used for commercial purposes. The porch roof must be a lower pitch than the roof of the building.	Three points
2. Cedar shake, natural wood exterior, or the use of hardiplank; must cover the entire exterior of a building excluding doors and windows.	Three points
3. A 6 to 12 or greater building roof pitch (NOTE: All roofs must still observe the Town height limitation of 35 feet or 42 feet with an 8:12 roof pitch).	Two points
4. The presence of functional wood shutters on all windows.	One point
5. The presence of hip or gable dormers on the building. A shed dormer.	One point Three points
6. The total area of the building's façade is made up of only 15% of glass or window area.	Two points
7. The presence of a multiplane window façades on single pane windows.	One point
8. Lifesaving station watch tower, 10 feet x 10 feet, or greater Coastal watch tower, 6 feet x 6 feet, or greater	Three points One point
9. Hip roof, or combination of hips and gables, or mansard if the building contains more than 6,000 enclosed square feet on the ground level.	Three points
10. Cedar shake shingles on entire roof (gable, hip, shed, or mansard; not parapet).	Three points
<b>MINIMUM NUMBER OF REQUIRED POINTS</b>	<b>13 POINTS</b>

# ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

## SECTION II. LANDSCAPED SPACE AND INTENSITY.

The Town has made it a goal to preserve to the greatest extent possible the aesthetic and visual integrity of the Town. This includes our natural and manmade environments. One way to accomplish this goal is to work with developers to try and preserve as much of a natural landscape as possible. By requiring more open space, providing for more protection of existing vegetation, and in providing more landscaping the Town is working to lower the intensity of commercial development and afford greater protection of our natural environment.

TABLE 9-2: LANDSCAPED SPACE AND INTENSITY DESIGN ELEMENTS	
Criteria	Development Points
1. Reduce the overall building coverage to 20% of the site area.	Three points
2. Reduce the overall parking lot coverage to 40% of the site area.	Three points
3. Increase the overall landscaped area of the site to 40% in accordance with the buffering requirements and vegetation preservation/planting requirements as outlined in Article 10, Part VI, Commercial Design Standards and subsection 9.22.8 of this section.	Three points
Criteria	Development Points
4. Preserve a minimum 15% of a site's existing natural vegetation and dune elevations. This 15% shall be based on a site's total lot area and can be utilized in conjunction with the site's required landscaped area.	Three points
5. Placement of landscaping within, or next to, on-site impervious surface area to be no less than 5% of the total proposed landscaped area that is required for the site.	Two points
<b>MINIMUM NUMBER OF REQUIRED POINTS</b>	<b>FOUR POINTS</b>

## SECTION III. BUILDING AND SITE DESIGN.

As a community that can, and is, inundated by coastal storms and other natural disasters it is vital that the Town encourage sound development principles. It is also important for the Town to encourage sound building and site design criteria to ensure that existing and future commercial developments will complement each other. By encouraging development that addresses these concerns we are lowering the potential for loss of life and property during storm events.

TABLE 9-3: BUILDING AND SITE DESIGN ELEMENTS	
Criteria	Development Points
1. Wind load design elements that exceed the minimum state building code requirements	Three points
2. Building to be placed above base flood level: By one foot By two feet By three feet or more	Two points Three points Four points
3. Separation from an off-site building by at least fifty (50) feet	One point
4. A stormwater management plan that provides on-site retention of the first 1-1/2 inches of rainfall.	One point

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

5. Installation of sidewalks across the front of the property along the nearest street right-of-way and show how future additions will connect to create a pedestrian system	One point
6. The building is on an elevated concrete or wood foundation rather than a slab on grade style foundation.	Two points
7. The installation of bollard style parking lot lights	Three points
<b>Criteria</b>	<b>Development Points</b>
8. The use of elevated light poles that do not exceed eighteen (18) feet in height and provide shielding for the lights.	Two points
9. Minimum architectural and security level lighting in accordance with Article 10, Part IV, Outdoor Lighting of this UDO. No internally illuminated signage or neon window signage.	Two points
10. Building footprint is not a square or rectangle. Footprint is a result of a dominant structure with additive structure extensions or combined structures of similar size and shape with a uniform roof design. Either style creates an "L," "T," or "H" building footprint.	Three points
<b>MINIMUM NUMBER OF REQUIRED POINTS</b>	<b>FOUR POINTS</b>

**9.22.7.2.** The following sign dimensions are authorized based on the number of development points incorporated into the building or site.

TABLE 9-4: SIGN DIMENSIONS	
Dimensions	Development Points
8 square feet	16 points
12 square feet	18 points
16 square feet	20 points
24 square feet	22 points
32 square feet	24 points

**9.22.7.3.** The maximum sign area allowed for a freestanding sign in the village C2 district shall be thirty-two (32) square feet.

**9.22.7.4.** If any of the development criteria selected by the applicant are eliminated from the site then the freestanding sign shall be reduced in area to the previous allowable sign area as prescribed in the above point system. If all the improvements are eliminated in total, then the freestanding sign shall be removed.

**9.22.7.5.** If a developer does not desire to utilize any of these development standards, they shall be regulated to the existing district standards as outlined in Section 9.18, Regulations Governing Signs and Outdoor Advertising Structures, and the Town sign regulations in Article 10, Part III of this UDO.

### **9.22.8. Landscaping.**

Each Commercial 2 district shall conform to an overall landscaping plan. All landscaping plans are to be submitted to the Town as part of the site plan approval process. There shall be a minimum twenty (20) foot landscaped or natural buffer around each district boundary. Fifty (50) percent of this buffer is to be bermed or planted to a minimum height of forty-two (42) inches.

**9.22.9. Lighting.**

Lighting in the Commercial 2 district shall meet the requirements of this UDO.

**9.22.10. Sewage Disposal.**

Approval by the appropriate agency of a sewage disposal system to be used in the Commercial 2 district shall be verified before site plan approval or, if necessary, before a building permit can be granted.

**SECTION 9.23 INSTITUTIONAL DISTRICT.**

**9.23.1. Intent.**

The Institutional district is established to provide for the proper grouping and development of uses designed to serve the entire community as well as the Village at Nags Head. The institutional district shall be that area designated on the official land use plan map for the Village at Nags Head as "Proposed Municipal Complex-Wastewater Treatment Facility/Golf Course Maintenance."

**9.23.2. Permitted Uses.**

Permitted uses in the Institutional district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District.

**9.23.3. Special Uses.**

Special uses in the Institutional district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District, subject to the requirements of this Institutional district and additional regulations and requirements imposed by the Board of Commissioners in accordance with Section 3.8, Special Use Permits.

**9.23.4. Access Points.**

Accessways off US 158 in the Institutional district shall be only where designated on the illustrative master plan. Side roads shall not have an accessway within one hundred (100) feet of an intersection.

**9.23.5. Dimensional Requirements.**

Dimensional requirements in the Institutional district are as follows:

**9.23.5.1. Maximum Density.** Not applicable.

**9.23.5.2. Coverage.**

**9.23.5.2.1. Maximum Impervious Coverage.** Seventy (70) percent.

**9.23.5.2.2. Minimum Landscaped Space.** Thirty (30) percent. Landscaped space does not include parking, drives, or buildings, but does include walks, gazebos, fountains, plant material, other landscaping features, etc.

**9.23.5.3. Building Setback Requirements.**

**9.23.5.3.1.** A minimum of forty (40) feet from the US 158 right-of-way.



**9.23.5.3.2.** A minimum of twenty (20) feet from the Seachase Drive right-of-way.

**9.23.5.3.3.** A minimum of fifty (50) feet from residential uses.

**9.23.5.3.4. *Building-to-Building Separation.*** A minimum of twenty-five (25) feet.

**9.23.5.3.5. *Building Height Limitation.*** Thirty-five (35) feet; however, for every foot above thirty-five (35) feet, there shall be an additional setback of two (2) feet from Seachase Drive, US 158, and any residential district. The maximum building height shall be forty-five (45) feet.

**9.23.5.3.6. *Parking Required.*** Refer to Section 10.16, Required Parking by Use of this UDO.

### **SECTION 9.24 HOTEL DISTRICT.**

#### **9.24.1. *Intent.***

This Hotel district is intended to serve the visitor population by catering to the tourist needs typically associated with a family-beach community. All hotel and auxiliary structures shall meet or exceed the fire code requirements for commercial buildings in the state as per the Town standards.

#### **9.24.2. *Permitted Uses.***

Permitted uses in the Hotel district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District.

#### **9.24.3. *Special Uses.***

Special uses in the Institutional district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District, subject to the requirements of this Hotel district and additional regulations and requirements imposed by the Board of Commissioners in accordance with Section 3.8, Special Use Permits.

#### **9.24.4. *Fire Code Requirements.***

All hotel and auxiliary structures will meet or exceed the fire code requirements for commercial buildings in the state as per the Town standards. The structures shall be sprinkler protected in accordance with Section 20-121 of the Town Code. A fire flow test of the water supply for the sprinkler system serving or intended to serve the structures shall be conducted at the developer's expense by the Town fire department or by an independent testing firm. If the test is conducted by an independent testing firm, it shall be made under the direct supervision of the Town fire chief or his designee. A fee, in accordance with the most recently adopted consolidated fee schedule, shall be paid by the developer. If the flow is found to be deficient according to the insurance service office standards applicable to the Town, the developer shall bring the fire flow up to the established requirements set out in the insurance service office standards. The fire flow test shall be made prior to the issuance of a building permit.

# ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

## **9.24.5. Development Standards.**

Development standards in the Hotel district shall be as follows. In cases where these standards conflict with the standards contained in Article 10, Part VI, Commercial Design Standards, the more restrictive standard shall apply.

### **9.24.5.1. Coverage for Hotels.**

Building Height	Maximum Building	Maximum Parking	Minimum Landscaped
1 to 28 feet	45%	35%	20%
29 to 48 feet	40%	40%	20%
49 to 60 feet	35%	45%	20%

If off-site parking is utilized to meet the parking requirements for a hotel, lot coverage for the off-site parking lot shall not exceed eighty (80) percent of the total lot area.

### **9.24.5.2. Coverage for Commercial and Offices Uses.**

**9.24.5.2.1. Maximum Building.** Twenty-five (25) percent.

**9.24.5.2.2. Maximum Parking.** Forty-five (45) percent.

**9.24.5.2.3. Minimum Landscaped Area.** Thirty (30) percent. Landscaped space does not include parking, drives, or buildings, but does include walks, gazebos, fountains, plant material, other landscaping features, etc.

### **9.24.5.3. Building Setback Requirements.**

**9.24.5.3.1.** For hotels one to three stores in height:

**9.24.5.3.1.1.** The eastern setback shall be the CAMA line or one hundred fifty (150) feet from mean high water, whichever is greater.

**9.24.5.3.1.2.** A minimum of forty-five (45) feet from US 158 right-of-way or NC 12 right-of-way shall be provided.

**9.24.5.3.1.3.** For the northern and southern boundaries, a minimum twenty-five (25) foot natural or landscaped buffer shall be provided.

**9.24.5.3.2.** For hotels above three stores in height:

**9.24.5.3.2.1.** The eastern setback shall be the CAMA line or one hundred fifty (150) feet from mean high water, whichever is greater, plus an additional fifteen (15) feet for each additional story above three. In addition to the CAMA setback, on the large parcel there is a village imposed large structure setback of two hundred twenty (220) feet, plus an additional fifteen (15) feet for each

additional story above three, from the first line of stable natural vegetation or the static line, following the recommendation of the National Hurricane Center.

**9.24.5.3.2.2.** East of NC 12, a minimum of forty-five (45) feet from NC 12 right-of-way, plus an additional fifteen (15) feet for each additional story above three, shall be provided. West of NC 12, a minimum of thirty-five (35) feet from US 158 right-of-way or NC 12 right-of-way, plus an additional one-foot building setback for each foot over 35-feet in building height, shall be provided.

**9.24.5.3.2.3.** East of NC 12, for the northern and southern boundaries, a minimum 35-foot natural or landscaped buffer plus an additional fifteen (15) feet for each additional story above three shall be provided. West of NC 12, for the northern and southern boundaries a minimum 25-foot natural or landscaped buffer, plus an additional one-foot building setback for each foot over 35-feet in building height, shall be provided.

**9.24.5.3.3.** For commercial and office uses:

**9.24.5.3.3.1.** The eastern setback shall be the CAMA line or one hundred fifty (150) feet from mean high water, whichever is greater.

**9.24.5.3.3.2.** A minimum of forty-five (45) feet from US 158 right-of-way or NC 12 right-of-way shall be provided.

**9.24.5.4. Building Separation.**

**9.24.5.4.1.** There shall be a minimum ten (10) foot building separation between one-story buildings.

**9.24.5.4.2.** There shall be a minimum twenty (20) foot building separation between two-story buildings.

**9.24.5.4.3.** There shall be a minimum thirty (30) foot building separation between three-story buildings.

**9.24.5.4.4.** There shall be a minimum forty (40) foot building separation between four-story buildings.

**9.24.5.4.5.** There shall be a minimum fifty (50) foot building separation between five-story buildings.

**9.24.5.5. Maximum Height.**

**9.24.5.5.1.** For hotel developments: Sixty (60) feet.

**9.24.5.5.2.** For all other uses: Thirty-five (35) feet.

**9.24.6. Loading Zones.**

Off-street loading and unloading areas shall be provided in accordance with Section 10.17, Off-Street Loading.

**9.24.7. Vehicle Access.**

Each lot that fronts on Mall Drive shall be entitled to one access (curb cut) onto this street except where the Town has approved a unified access plan. When a unified access plan has been approved by the Town, access to Mall Drive, US 158 and NC 12 shall be in strict adherence with that approved access plan. All accessways shall be at least one hundred (100) feet from an intersection with NC 12 or US 158.

**9.24.8. Architectural.**

Each building cluster shall be architecturally compatible. A building cluster shall be a grouping of two or more businesses housed in either attached or detached structures in a definable district. Attaching will be encouraged.

**9.24.9. Signage.**

There shall be a limitation on signage which will require architectural review committee approval, for uniform district conformity, and a building permit from the Town. (See Article 10, Part III of this UDO for signage approval process.) As an alternative to the village hotel district sign, and applicable only to the village hotel district, one freestanding sign may be located on-site, subject to the following criteria:

**9.24.9.1.** It is the purpose of this section to permit an applicant an opportunity to erect one permanent freestanding sign on-site as long as specific architectural, site, and building design standards developed by the Town are adhered to. These standards are designed to preserve and promote open space on commercial sites, promote more landscaped area, reduce impervious surfaces, and to promote architectural and design standards that are indicative of our Nags Head heritage. A freestanding sign may be erected, subject to the following conditions:

**9.24.9.1.1.** A freestanding sign shall not exceed ten feet in height above street grade.

**9.24.9.1.2.** The freestanding sign shall require architectural review and approval by the Town Planning Board and the Board of Commissioners.

**9.24.9.1.3.** Only one freestanding sign shall be allowed per site.

**9.24.9.1.4.** If a freestanding sign is erected under the provisions of this section, no roof signs shall be allowed for the site. If a developer qualifies for a freestanding sign, any existing roof sign shall be removed prior to the installation of the freestanding sign.

**9.24.9.1.5.** A developer shall be allowed one freestanding sign based on adherence to the development points listed in subsection 9.24.9.1.6. The following development point system shall be used to determine the maximum allowable freestanding sign for a site.

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**9.24.9.1.6.** A developer must meet the minimum number of required points for each section if a freestanding sign is to be allowed:

## SECTION I. BUILDING ARCHITECTURE.

The Town has a rich architectural history. A combination of certain design elements, i.e., wraparound porches, cedar shake shingles, and cupolas, have helped to define our area and are an integral part of what allows our community to stand out from the rest. By encouraging these architectural designs, we are not only promoting our heritage, we are preserving an aesthetic quality that has made our community a desirable place to live and vacation. (Construction specifications from the Residential Design Guidelines, Appendix B, as amended, shall be used as reference for the criteria below.)

**TABLE 9-6: BUILDING ARCHITECTURE DESIGN ELEMENTS**

Criteria	Development Points
1. A front porch along the entire front of the building or a wraparound porch along two sides of a building that is not used for commercial purposes. The porch roof must be a lower pitch than the roof of the building.	Three points
2. Cedar shake, natural wood exterior, or the use of hardiplank; must cover the entire exterior of a building excluding doors and windows.	Three points
3. A 6 to 12 or greater building roof pitch (NOTE: All roofs must still observe the Town height limitation of 35 feet or 42 feet with an 8:12 roof pitch).	Two points
4. The presence of functional wood shutters on all windows.	One point
5. The presence of dormer(s) on the building. A dormer shall mean a window which is set upright in a sloping roof.	Three point
6. The total area of the building's façade is made up of only 15% of glass or window area.	Two points
7. The presence of a multiplane window façades on single pane windows.	One point
8. Lifesaving station watch tower, 10 feet x 10 feet, or greater Coastal watch tower, 6 feet x 6 feet, or greater	Three points One point
9. Hip roof or combination of hips and gables.	Three points
10. Cedar shake shingles on entire roof (gable, hip, shed; not mansard or parapet).	Three points
<b>MINIMUM NUMBER OF REQUIRED POINTS</b>	<b>THIRTEEN POINTS</b>

## SECTION II. LANDSCAPED SPACE AND INTENSITY.

The Town has made it a goal to preserve to the greatest extent possible the aesthetic and visual integrity of the Town. This includes our natural and manmade environments. One way to accomplish this goal is to work with developers to try and preserve as much of a natural landscape as possible. By requiring more open space, providing for more protection of existing vegetation, and in providing more landscaping the Town is working to lower the intensity of commercial development and afford greater protection of our natural environment.

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**TABLE 9-7: LANDSCAPED SPACE AND INTENSITY DESIGN ELEMENTS**

Criteria	Development Points
1. Reduce the overall building coverage to 20% of the site area.	Three points
2. Reduce the overall parking lot coverage to 40% of the site area.	Three points
3. Increase the overall landscaped area of the site to 40% in accordance with the buffering requirements and vegetation preservation/planting requirements as outlined in Article 10, Part VI, Commercial Design Standards and subsection 9.24.10 of this section.	Three points
4. Preserve a minimum 15% of a site's existing natural vegetation and dune elevations. This 15% shall be based on a site's total lot area and can be utilized in conjunction with the site's required landscaped area.	Three points
5. Placement of landscaping within, or next to, on-site impervious surface area to be no less than 5% of the total proposed landscaped area that is required for the site.	Two points
<b>MINIMUM NUMBER OF REQUIRED POINTS</b>	<b>FOUR POINTS</b>

### SECTION III. BUILDING AND SITE DESIGN.

As a community that can, and is, inundated by coastal storms and other natural disasters it is vital that the Town encourage sound development principles. It is also important for the Town to encourage sound building and site design criteria to ensure that existing and future commercial developments will complement each other. By encouraging development that addresses these concerns we are lowering the potential for loss of life and property during storm events.

**TABLE 9-8: BUILDING AND SITE DESIGN ELEMENTS**

Criteria	Development Points
1. Wind load design elements that exceed the minimum state building code requirements	Three points
2. Building to be placed above base flood level: By one foot By two feet By three feet or more	Two points Three points Four points
3. Separation from an off-site building by at least fifty (50) feet	One point
4. A stormwater management plan that provides on-site retention of the first 1-1/2 inches of rainfall.	One point
5. Installation of sidewalks across the front of the property along the nearest street right-of-way and show how future additions will connect to create a pedestrian system	One point
6. The building is on an elevated concrete or wood foundation rather than a slab on grade style foundation	Two points
7. The installation of bollard style parking lot lights	Three points
8. The use of elevated light poles that do not exceed eighteen (18) feet in height and provide shielding for the lights.	Two points

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

9. Minimum architectural and security level lighting in accordance with Article 10, Part IV, Outdoor Lighting of this UDO. No internally illuminated signage or neon window signage.	Two points
<b>Criteria</b>	<b>Development Points</b>
10. Building footprint is not a square or rectangle. Footprint is a result of a dominant structure with additive structure extensions or combined structures of similar size and shape with a uniform roof design. Either style creates an “L,” “T,” or “H” building footprint.	Three points
<b>MINIMUM NUMBER OF REQUIRED POINTS</b>	<b>FOUR POINTS</b>

**9.24.9.2.** The following sign dimensions are authorized based on the number of development points incorporated into the building or site.

<b>Dimensions</b>	<b>Development Points</b>
8 square feet	16 points
12 square feet	18 points
16 square feet	20 points
24 square feet	22 points
32 square feet	24 points

**9.24.9.3.** The maximum sign area allowed for a freestanding sign in the village hotel district shall be 32 square feet.

**9.24.9.4.** If any of the development criteria selected by the applicant are eliminated from the site then the freestanding sign shall be reduced in area to the previous allowable sign area as prescribed in the above point system. If all the improvements are eliminated in total, then the freestanding sign shall be removed.

**9.24.9.5.** If a developer does not desire to utilize any of these development standards, they shall be regulated to the existing district standards as outlined in Section 9.18, Regulations Governing Signs and Outdoor Advertising Structures, and the Town sign regulations in Article 10, Part III of this UDO.

### **9.24.10. Landscaping.**

**9.24.10.1. For Hotels.** All landscape plans are to be submitted to the Town as part of the site plan approval process. There shall be a minimum twenty (20) foot landscaped or natural buffer around the district.

**9.24.10.2. For Commercial and Offices Uses.** All commercial and office uses shall be buffered in accordance with Article 10, Part VI, Commercial Design Standards. There shall be a minimum twenty (20) foot landscaped or natural buffer area required when a commercial use within the

# ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

district abuts a residential use or designation. Fifty (50) percent of this buffer is to be bermed or planted to a minimum height of forty-two (42) inches.

### **9.24.11. Ocean Views.**

It is the developers' desire to maintain open views of the ocean/dunes whenever feasible. Therefore, criteria are hereby developed for a "visual window" or unobstructed panorama of the ocean vista between NC 12 and the Atlantic Ocean. In theory, if there were a one hundred (100) percent "visual window," there would be no obstruction above the primary dunes. On the other hand, if there were a zero percent "visual window," there would be a six-story building constructed from the north property line to the south property line. To determine the amount of openness of the ocean-front view, the "visual window" would be a percentage of the width of the lot measured at the first line of stable natural vegetation. The standard shall be that the vertical building mass or imaginary wall for either a one-story or two-story building shall have a twenty (20) percent "visual window." For each additional story over two, the percentage of the "visual window" shall be as follows: three stories, twenty-four (24) percent; four stories, thirty-two (32) percent; five stories, forty (40) percent; and six stories, forty-eight (48) percent.

## **SECTION 9.25 DETACHED SINGLE-FAMILY DISTRICT.**

### **9.25.1. Intent.**

These detached single-family districts are intended to provide for a variety of single-family detached home sites on individual lots. A zero-lot line arrangement may be utilized in those single-family districts that do not specify a minimum side yard setback requirement.

### **9.25.2. Permitted Uses.**

Permitted uses in the Detached Single-Family district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District.

### **9.25.3. Special Uses.**

Special uses in the Detached Single-Family district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District, subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners in accordance with Section 3.8, Special Use Permits.

### **9.25.4. General Development Standards.**

General development standards in the Detached Single-Family district are as follows:

#### **9.25.4.1. Lot Coverage.**

Maximum Building	Maximum Parking	Minimum Landscaped
50 percent	15 percent	35 percent

Landscaped space does not include parking, drives, or buildings, but does include walks, gazebos, fountains, plant material, other landscaping features, etc.



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**9.25.4.2. Minimum Building Separation.** A minimum of ten (10) feet, with no encroachments such as chimneys, decks, etc.

**9.25.4.3. Buffers.** A minimum 25-foot buffer shall be placed between any residential district in the Village at Nags Head and any outside residential development.

**9.25.4.4. Maximum Building Height.** Thirty-five (35) feet. However, when the proposed dwelling utilizes an eight-twelfths roof pitch, the maximum height for a dwelling may be increased to forty-two (42) feet.

**9.25.4.5. Parking.** Shall be provided in accordance with Article 10, Part II of this UDO.

### **9.25.5. Single-Family One (SF#1) District Standards.**

Single-family one district standards in the detached single-family district are as follows:

**9.25.5.1. Maximum Density.** Four (4) dwelling units per acre.

#### **9.25.5.2. Minimum Building Setback Requirements.**

Fronting On:	Front Yard	Side Yard	Rear Yard
Public right-of-way	25 feet	8 feet	20 feet

**9.25.5.3. Minimum Lot Size.** 8,000 square feet.

### **9.25.6. Single-Family Two (SF#2) District Standards.**

Single-family two district standards in the detached single-family district are as follows:

**9.25.6.1. Maximum Density.** Eight and one-half (8.5) dwellings per acre.

#### **9.25.6.2. Minimum Building Setback Requirements.**

Fronting On:	Front Yard	Side Yard	Rear Yard
Public right-of-way	15 feet	8 feet	15 feet

**9.25.6.3. Minimum Lot Size.** 3,000 square feet.

### **9.25.7. Single-Family Three (SF#3) District Standards.**

Single-family three district standards in the detached single-family district are as follows:

**9.25.7.1. Maximum Density.** Seven (7) dwellings per acre.

**9.25.7.2. Minimum Building Setback Requirements.** The rear yard may be reduced to fifteen (15) feet if adjacent to dedicated open space.

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Fronting On:	Front Yard	Side Yard	Rear Yard
Public right-of-way	25 feet or 12 feet from garage	Minimum separation between buildings 10 feet	20 feet

**9.25.7.3. Minimum Lot Size.** 4,000 square feet.

## **SECTION 9.26 ATTACHED SINGLE-FAMILY DISTRICT.**

### **9.26.1. Intent.**

These attached single-family districts are intended for development of single-family and two-family dwelling units. Elements common to these districts include smaller lots with flexible common areas and association maintenance of some jointly held land being possible. Two-family homes have the legal option of marketing each unit separately.

### **9.26.2. Permitted Uses.**

Permitted uses in the Attached Single-Family district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District.

### **9.26.3. Special Uses.**

Special uses in the Attached Single-Family district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District, subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners in accordance with Section 3.8, Special Use Permits.

### **9.26.4. General Development Standards.**

General development standards in the Attached Single-Family district are as follows:

#### **9.26.4.1. Coverage.**

Maximum Building	Maximum Parking	Minimum Landscaped	Minimum Common Area
60 percent	15 percent	20 percent	10 percent

**9.26.4.2. Minimum Building Separation.** A minimum of ten (10) feet for single-family detached homes and two-family homes, with no encroachments such as chimneys, decks, etc.

**9.26.4.3. Buffers.** A minimum 25-foot buffer shall be placed between any residential district in the Village at Nags Head and any outside residential development.

**9.26.4.4. Maximum Building Height.** Thirty-five (35) feet. However, when the proposed dwelling utilizes an eight-twelfths roof pitch, the maximum height for a dwelling may be increased to forty-two (42) feet.

**9.26.4.5. Parking.** Shall be provided in accordance with Article 10, Part II of this UDO.

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**9.26.4.6. Vehicle Access.** For residential developments access shall be in accordance with the Village at Nags Head Master Plan; however, hospitals as a special use shall have one access point directly from US 158, the location of which shall be approved by the Board of Commissioners.

### **9.26.5. Single-Family Four (SF#4) District Standards.**

Single-family four district standards in the attached single-family district are as follows:

**9.26.5.1. Maximum Density.** Twelve (12) dwellings per acre.

#### **9.26.5.2. Minimum Building Front Yard and Side Yard Setback Requirements.**

Fronting On:	Front Yard	Side Yard
Public right-of-way	15 feet	Minimum separation between buildings 10 feet

**9.26.5.3. Minimum Rear Yard.** Thirty (30) feet to existing residential outside the Village at Nags Head, plus a 25-foot natural or landscaped buffer. Only a minimum 15-foot rear yard is required when adjacent to interior open space area.

**9.26.5.4. Minimum Lot Size.** 2,400 square feet.

### **9.26.6. Single-Family Five (SF#5) District Standards.**

Single-family five district standards in the attached single-family district are as follows:

**9.26.6.1. Maximum Density.** Three (3) dwellings per acre.

#### **9.26.6.2. Minimum Building Front Yard and Side Yard Setback Requirements.**

Fronting On:	Front Yard	Side Yard
Public right-of-way	15 feet	Minimum separation between buildings 10 feet

**9.26.6.3. Minimum Rear Yard.** Thirty (30) feet to existing residential outside the Village at Nags Head, plus a 25-foot natural or landscaped buffer. Only a minimum 15-foot rear yard is required when adjacent to interior open space area.

**9.26.6.4. Minimum Lot Size.** 2,400 square feet.

## **SECTION 9.27 MULTIFAMILY DISTRICT.**

### **9.27.1. Intent.**

These multifamily districts are intended to serve the multifamily development needs of this community. Multifamily districts may include: townhouses which are single-family units attached in a row or back-to-back, as well as side-to-side, and sharing common walls with a maximum of eight units to a structure, or condominiums which are stacked units, one unit on top of another with common central entrances. These may be in the form of low-rise, mid-rise or garden apartments. All dwelling units in the

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

multifamily district shall meet or exceed the fire code requirements for multifamily dwellings in the state as specified by the Town standards.

### **9.27.2. Permitted Uses.**

Permitted uses in the Multifamily district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District.

### **9.27.3. Special Uses.**

Special uses in the Multifamily district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District, subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners in accordance with Section 3.8, Special Use Permits.

### **9.27.4. General Development Standards.**

General development standards in the multifamily district are as follows:

**9.27.4.1. Parking.** Shall be provided in accordance with Article 10, Part II of this UDO.

**9.27.4.2. Landscaping.** Landscape plans are required to be submitted to the Town as part of the site plan approval process.

**9.27.4.3.** All multifamily structure(s) shall be sprinkler protected in accordance with Section 20-121 of the Town Code. A fire flow test of the water supply for the sprinkler system serving or intended to serve the structures shall be conducted at the developer's expense by the Town fire department or by an independent testing firm. If the test is conducted by an independent testing firm, it shall be made under the direct supervision of the Town fire chief or his designee. A fee, in accordance with the most recently adopted consolidated fee schedule, shall be paid by the developer. If the flow is found to be deficient according to the insurance service office standards applicable to the Town, the developer shall bring the fire flow up to the established requirements set out in the insurance service office standards. The fire flow test shall be made prior to the issuance of a building permit.

### **9.27.5. Multifamily One (MF#1) District Standards.**

Multifamily one (MF #1) district standards in the multifamily district are as follows:

**9.27.5.1. Maximum Density.** Twelve (12) units per acre.

#### **9.27.5.2. Coverage.**

Maximum Building	Maximum Parking	Minimum Landscaped	Minimum Common Area
50 percent	20 percent	10 percent	20 percent

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**9.27.5.3. Minimum Building Setback Requirements.**

Fronting On:	Front Yard	Side Yard	Rear Yard
Public right-of-way	20 feet	10 feet for each story with a maximum of 25 feet required	20 feet

Side yard setbacks for developments taller than two stories between South Virginia Dare Trail and the Atlantic Ocean shall follow the “visual window” concept as prescribed in subsection 9.24.11.

**9.27.5.4. Building Cluster Separation.** There shall be a minimum ten (10) feet building separation for each twelve (12) feet of building height or portion thereof with a maximum required separation of twenty-five (25) feet.

**9.27.5.5. Maximum Height.** Thirty-six (36) feet.

**9.27.6. Multifamily Two (MR#2) District Standards.**

Multifamily two (MF #2) district standards in the multifamily district are as follows:

**9.27.6.1. Maximum Density.** Eighteen (18) units per acre.

**9.27.6.2. Coverage.**

Maximum Building	Maximum Parking	Minimum Landscaped	Minimum Common Area
50 percent (low-rise)	N/A	20 percent	N/A

**9.27.6.3. Minimum Building Front Yard and Side Yard Setback Requirements.**

Fronting On:	Front Yard	Side Yard
Public right-of-way	10 feet	20 feet

Side yard setbacks for developments taller than two stories between South Virginia Dare Trail and the Atlantic Ocean shall follow the “visual window” concept as prescribed in subsection 9.24.11.

**9.27.6.4. Rear Yard.** Twenty (20) feet. The rear yard may be reduced to fifteen (15) feet if adjacent to dedicated open space.

**9.27.6.5. Building Cluster Separation.** There shall be a minimum ten (10) feet building separation for each twelve (12) feet of building height or portion thereof.

**9.27.6.6. Maximum Height.** Forty-five (45) feet.

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## SECTION 9.28 TOWNHOUSE I DISTRICT.

### **9.28.1. Intent.**

It is the intent of the Townhouse I district to specify the standards for townhouse, multifamily, two-family and single-family dwellings that would utilize the flexibility of the planned unit development concept to promote safety, efficiency, convenience and amenities in the best use of the land.

### **9.28.2. Permitted Uses.**

Permitted uses in the Townhouse I district shall be as provided in Section 9.36, Table of Uses and Activities in the SPD-C District.

### **9.28.3. Development Standards.**

Development standards in the Townhouse I district are as follows:

#### **9.28.3.1. Minimum Setbacks:**

Minimum Setback From	Wood Frame Construction (When Permitted)	Masonry Construction
Virginia Dare Trail	45 feet	45 feet
Other Streets	30 feet	30 feet
Atlantic Ocean	CAMA minimum of 150 feet from MHW, whichever is greater	
Property line abutting land zoned open space, setbacks not required from open space along ocean or sound	25 feet	25 feet
Property line abutting another zoning district	25 feet	25 feet
Property line abutting land dedicated in Town for beach access.	25 feet	25 feet
Property line separating single-family or two-family structure	12 feet	12 feet

If two or more setbacks overlap, such as setbacks from US 158 and from a property line, the more stringent shall apply.

#### **9.28.3.2. Minimum Separation Between Structures.**

**9.28.3.2.1. Wood Frame Construction (When Permitted):** Twenty-four (24) feet.

**9.28.3.2.2. Masonry Construction:** Twenty-two (22) feet).

**9.28.3.3. Maximum Height of Structures.** Thirty-five (35) feet; may exceed the 35-foot height limit by one (1) foot for each two (2) feet added to the setbacks on each of the four sides; may not exceed fifty (50) feet in height with use of increased setbacks.

#### **9.28.3.4. Maximum Lot Coverage, Drainage and Open Space.**

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**9.28.3.4.1.** Areas within seventy-five (75) feet of estuarine water shall not be more than thirty (30) percent covered with impermeable surface.

**9.28.3.4.2.** For remaining areas, runoff must be retained entirely on-site, or handled with a combination of on-site features and retention areas in abutting land zoned open space or channeled into an existing off-site drainage system. The drainage plan shall be certified as adequate to handle the development's runoff in a ten-year storm by a licensed engineer and approved by the Town.

**9.28.3.5. Minimum Parking Requirements.** Shall be provided in accordance with Article 10, Part II of this UDO.

**9.28.3.6. Number of Accessways.** One accessway per three hundred (300) feet of frontage along NC 12 is allowed.

**9.28.3.7. Minimum Lot Area.** A lot shall be of sufficient area to meet the dimensional requirements of this article and other applicable state and local ordinances.

**9.28.3.8. Minimum Lot Width.** Sixty (60) feet.

**9.28.3.9.** The structures shall be sprinkler protected in accordance with Section 20-121 of the Town Code. A fire flow test of the water supply for the sprinkler system serving or intended to serve the structures shall be conducted at the developer's expense by the Town fire department or by an independent testing firm. If the test is conducted by an independent testing firm, it shall be made under the direct supervision of the Town fire chief or his designee. A fee, in accordance with the most recently adopted consolidated fee schedule, shall be paid by the developer. If the flow is found to be deficient according to the insurance service office standards applicable to the Town, the developer shall bring the fire flow up to the established requirements set out in the insurance service office standards. The fire flow test shall be made prior to the issuance of a building permit.

**9.28.3.10. Maximum Number of Dwelling Units per Structure.**

**9.28.3.10.1. For Townhouses.** Eight (8) dwelling units per structure.

**9.28.3.10.2. For Multifamily.** Eight (8) dwelling units per structure.

### **9.28.4. Design Options.**

Points may be acquired by incorporating one or more of the following design options in the Townhouse I district. The points may in turn be used to acquire reductions in dimensional requirements as explained in subsection 9.28.5 of this section. The design options and the points awarded with each are as follows:

**9.28.4.1.** Grant a perpetual easement at least six (6) feet in width to facilitate public pedestrian access to the ocean. The easements shall be clearly marked with a sign and easily identifiable. The easements shall be unencumbered by any part of the development and shall be easily

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traversable, incorporating walkways to cross dunes. The easements shall provide direct pedestrian access from NC 12 to the ocean beach (25 design points).

**9.28.4.2.** Provide a ten-foot wide vegetative buffer strip along the property line that abuts a zoning district of a different land use or intensity. The vegetation shall meet a minimum height of ten (10) feet within five years (15 design points).

**9.28.4.3.** Align entrances/exits from NC 12 with existing entrances/exits across the highways (15 design points).

**9.28.5. Benefits from Design Options.**

Design points accumulated by incorporating design options specified in subsection 9.28.4 of this section may be used to obtain benefits as listed in this subsection 9.28.5. No single benefit can be obtained more than once for the same development. For example, a five-foot reduction in a setback from a street may not be obtained twice on the same development to reduce the setback by ten (10) feet.

**9.28.5.1.** Reductions in setbacks itemized by each of the following subsections may be realized for ten design points:

Fronting On:	Wood Frame Construction (When Permitted)	Masonry Construction
Virginia Dare Trail	5 feet reduction (from 45 to 40)	5 feet reduction (from 45 to 40)
Other Streets	5 feet reduction (from 30 to 25)	5 feet reduction (from 30 to 25)
Property line abutting land zoned open space	15 feet reduction (from 25 to 10)	15 feet reduction (from 25 to 10)
Property line abutting another zoning district	5 feet reduction (from 25 to 20)	10 feet reduction (from 25 to 20)
Property line abutting land dedicated in Town for beach access.	10 feet reduction (from 25 to 15)	15 feet reduction (from 25 to 10)

**9.28.5.2.** A reduction in the following separation required between structures may be realized for ten design points: Masonry construction – four-foot reduction (from 22 to 18 feet).

**9.28.5.3.** The following reduction in the number of parking spaces required per dwelling unit may be realized for ten design points: The parking requirement is reduced from 2-1/2 spaces per dwelling unit to two per dwelling unit.

**SECTION 9.29 RECREATION DISTRICT.**

**9.29.1. Intent.**

It is the intent of this district to provide opportunities throughout the Village at Nags Head for active and passive recreation intended for the use, comfort and convenience of the members of the village property owners association and their guests. The Recreation district shall be that area designated on the official land use plan map for the Village at Nags Head as “recreation and open space.”



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**9.29.2. Permitted Uses.** Permitted uses within the Recreation district area as follows:

**9.29.2.1. Village at Nags Head Common Open Space.** Purpose – Village common open spaces include but are not limited to “village” entry areas including islands, medians and signs; buffer and natural areas; Roanoke Sound access areas; Atlantic Ocean access areas; “Village” walkways, drainage easements and structures; lakes, ponds; and other open space areas.

**9.29.2.2. The Village at Nags Head Beach and Tennis Club.** Purpose – The Village at Nags Head Beach and Tennis Club would consist of a private club with facilities which may include a beach, swim and/or tennis center which may have the following facilities; including a swimming pool, sunbathing areas, club house, eating and drinking establishments, pro shops, bath and toilet facilities, tennis/squash/basketball courts, volleyball area or any other appropriate recreational activity. The on-site rental of beach chairs and umbrellas as permitted in subsection 9.29.2.4 of this section and limited to the property located at 5805 S. Seachase Drive.

**9.29.2.3. The Village at Nags Head Golf Club.** Purpose – The Village at Nags Head Golf Club would consist of a private club with facilities which shall include a golf course and club and those auxiliary facilities that are necessary. The area devoted to golf course will have restrictive covenants on the property which will assure that this property can only be used for a golf course or open space for perpetuity.

**9.29.2.4. Village at Nags Head Private Beach Access and Bathhouse.** Purpose —The Village at Nags Head private beach access and bathhouse, located at 4929 S. Virginia Dare Trail shall consist of a private beach access for use by Village at Nags Head Property Owners Association members and their guests as well as the on-site rental of beach chairs and umbrellas at the private beach bathhouse located at 4929 S. Virginia Dare Trail provided that:

**9.29.2.4.1.** Storage of such items, overnight and during hours of operation, shall be located westward of the static line and shall not be visible from the beach.

**9.29.2.4.2.** Beach chairs and umbrellas to be placed upon the beach shall contain no commercial signage. Property identifiers such as initials and numbering shall be located on the interior or underside of any chair or umbrella. Any other signage shall not be visible from the beach.

**9.29.2.4.3.** Placement of beach chairs and umbrellas upon the beach shall not restrict or impede the flow of vehicular, pedestrian or emergency services traffic.

**9.29.2.4.4.** All transactions involved in the operation of this business shall be from within the principal structure, the bathhouse, a location west of the static line, online, with rental contract or at the association management company’s location.

**9.29.2.4.5.** Signage related to the on-site rental of beach chairs and umbrellas shall not be visible from NC 12.

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

**9.29.2.4.6.** Rentals shall be limited to members of the Village at Nags Head Property Owners Association and their guests only.

**9.29.2.4.7.** Under no circumstance shall beach chairs and umbrellas be left on the beach or be east of the static line overnight.

**9.29.2.4.8.** At the close of business hours, the beach upon which rentals occur shall be cleaned of all loose trash and debris.

**9.29.2.4.9.** Beach chairs and umbrellas shall only be set up when requested by the customer, beach chairs and umbrellas shall not be pre-set.

**9.29.2.4.10.** Emergency services personnel have the right to move beach chairs and umbrellas as necessary to ensure a clear line of sight for safety purposes.

**9.29.2.4.11.** Any violation of these regulations may result in any of the following actions:

**9.29.2.4.11.1.** Removal of equipment left on the beach overnight;

**9.29.2.4.11.2.** Issuance of civil penalty pursuant to Section 1.10, Violation of UDO Regulations of this UDO; or

**9.29.2.4.11.3.** Immediate revocation of the zoning permit.

### **9.29.3. Dimensional Requirements.**

Dimensional requirements within the Recreation district are as follows:

#### **9.29.3.1. The Village at Nags Head Tennis Club.**

**9.29.3.1.1. Parking Required.** Swimming pool, one space per one hundred forty (140) square feet of pool water surface area; basketball, two spaces per basket; tennis and racquetball courts, two spaces per court, eating and drinking one space for each fifty-five (55) square feet of interior public area.

**9.29.3.1.2. Landscaping Required.** There shall be a minimum twenty (20) landscaped or natural buffer around these areas.

#### **9.29.3.2. The Village at Nags Head Golf Club.**

**9.29.3.2.1. Parking Required.** Golf course, minimum of four (4) spaces per tee.

**9.29.3.2.2. Landscaping Required.** There shall be a minimum ten-foot landscaped or natural buffer around these facilities.

### **SECTION 9.30 – 9.35 RESERVED.**

# ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

## PART VI. TABLE OF USES AND ACTIVITIES

### SECTION 9.36 TABLE OF USES AND ACTIVITIES FOR THE SPD-C DISTRICT.

Use Category/ Class	Use Type	C1	C2	I	Hotel	SF- DET	SF- ATT	MF	TH	REC	Supplemental Regulations
1 Residential	Accessory security and management offices, swimming pools, and tennis courts								P		
1 Residential	Detached single-family dwelling		P		P	P	P	P	P		
1 Residential	Two-family dwelling						P	P	P		
1 Residential	Hotel				PS						Sect. 9.37.1
1 Residential	Hotel condominium				P						
1 Residential	Large residential dwellings		P		P	P	P	P	P		
1 Residential	Motel				P						
1 Residential	Motor lodge/motor inn				P						
1 Residential	Multifamily unit							P			
1 Residential	Townhouse								P		
2 Retail	Beach recreation equipment rentals and sales		P								
2 Retail	Greenhouse and plant nursery	P									
2 Retail	Home center	PS									Sect. 9.37.2
2 Retail	Pet shop		C								
2 Retail	Production and repair facility for eyeglasses, hearing aids, and prosthetic devices	P									
2 Retail	Retail establishment, including the incidental manufacturing, repair or service of goods on the premises, retail sales, display rooms, and wholesale and distribution operations in connection with a retail establishment	P	P		P						
3 Service	Aerobics class/dance school/karate school	P	P								
3 Service	Child day care center	CS			CS						Sect. 9.37.3
3 Service	Financial institution	P									
3 Service	Indoor public assembly	P	C								
3 Service	Newspaper printing and publishing	P									

# ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

Use Category/ Class	Use Type	C1	C2	I	Hotel	SF- DET	SF- ATT	MF	TH	REC	Supplemental Regulations
3 Service	Personal service establishment, including barbershop and beauty shop, shoe repair shop, cleaning, dyeing, laundry, pressing, dressmaking, tailoring, and garment repair shop with processing on the premises	P	P								
4 Food Service	Bakery and delicatessen	P									
4 Food Service	Restaurant	P	P		P						
4 Food Service	Restaurant, drive-in	CS	CS		CS						Sect. 9.37.4
4 Food Service	Restaurant, drive-through	CS	CS								Sect. 9.37.5
5 Office	Office, including business, financial, governmental, medical, and professional	P	P		P						
5 Office	Office cluster		P								
6 Commercial Mixed Uses	Community shopping mall	P									
6 Commercial Mixed Uses	Neighborhood shopping cluster, with maximum allowable square footage of 10,000 feet		P								
6 Commercial Mixed Uses	Outdoor stands (accessory to shopping mall/neighborhood shopping cluster)	PS	PS								Sect. 9.37.6
6 Commercial Mixed Uses	Regional Shopping Mall	P									
7 Institutional	Business and vocational school	P									
7 Institutional	Municipal building, including fire station, police station, and administrative office			P							
7 Institutional	Public utility facility		C								
7 Institutional	Religious complex		C								
7 Institutional	Wastewater treatment plant			PS							Sect. 9.37.7
8 Medical	Heliports, accessory to a hospital						CS				Sect. 9.37.8
8 Medical	Hospital						CS				Sect. 9.37.9
8 Medical	Medical laboratory	P					P				
9 Recreation	Beach access and bathhouse									P	
9 Recreation	Beach and tennis club									P	
9 Recreation	Commercial and recreational uses as accessory to hotel (i.e., bath and tennis club, restaurant, parking, and gifts/specialty shop)				P						
9 Recreation	Golf club and golf course									P	
9 Recreation	Golf course maintenance facility			P							

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Use Category/ Class	Use Type	C1	C2	I	Hotel	SF- DET	SF- ATT	MF	TH	REC	Supplemental Regulations
9 Recreation	Grass surface putting course		C								
9 Recreation	Indoor recreational facility	P									
9 Recreation	Open space									P	
9 Recreation	Private Pool – Commercial									P	
9 Recreation	Sport climbing wall		C								
9 Recreation	Theater	P									
10 Telecom	Telephone switching station/electric substation	CS	CS	CS	CS	CS	CS	CS			Sect. 9.37.10
12 Accessory	Portable storage units/ temporary construction trailers	PS	PS	PS	PS	PS	PS	PS	PS	PS	Sect. 9.37.11

## **SECTION 9.37 SUPPLEMENTAL REGULATIONS FOR THE SPD-C DISTRICT.**

### **9.37.1. Hotels.**

Hotels shall be permitted in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, provided that hotel suites comprise no more than thirty-three (33) percent of the total units in the building.

### **9.37.2. Home Center.**

Home centers shall be permitted in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, subject to the following requirements:

**9.37.2.1.** All materials and products must be enclosed and roofed on all sides.

**9.37.2.2.** If a building is used in connection with such center, the building may serve as a buffer on more or more sides.

**9.37.2.3.** The home center shall be fenced on all sides not abutting a building to a height of six (6) feet. Such construction shall be done in a manner so that there is no visible display of the materials and other matter stored within such center from the outside of such center.

**9.37.2.4.** A buffer zone of at least 2-1/2 feet from all property lines to all buildings, parking areas, and drives shall be maintained.

### **9.37.3. Child Day Care Center.**

Child day care centers are allowed as a special use in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, subject to other requirements of this Article and provided that the following conditions are met:

**9.37.3.1.** The facility shall adhere to the minimum requirements of and be licensed by the NC Department of Health and Human Services, Division of Child Development and Early Education.

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

**9.37.3.2.** Pickup and drop-off areas shall be provided separate from the drive aisle. The pickup and drop-off areas shall be designed so that no child is required to cross the parking lot or any other traffic areas.

**9.37.3.3.** All outdoor recreational areas shall be buffered from adjacent residential uses, residential land use classifications, and residential districts outside of the Village of Nags utilizing a 10-foot wide Commercial Transitional Protective Yard as prescribed in Article 10, Part VI, Commercial Design Standards. The buffer shall be placed on the exterior side of any required fencing.

**9.37.4. Restaurant, Drive-In.**

Drive-in restaurants are allowed as a special use in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, provided that the boundaries of the entire site, if located within fifty (50) feet of an existing residential use or district, shall be buffered from all adjacent properties and rights-of-way utilizing a 10-foot wide Commercial Transitional Protective Yard as prescribed in Article 10, Part VI, Commercial Design Standards.

**9.37.5. Restaurant, Drive-Through.**

Drive-through restaurants are allowed as a special use in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, provided that the boundaries of the entire site, if located within fifty (50) feet of an existing residential use or district, shall be buffered from all adjacent properties and rights-of-way utilizing a 10-foot wide Commercial Transitional Protective Yard as prescribed in Article 10, Part VI, Commercial Design Standards.

**9.37.6. Outdoor Stands, Accessory to Shopping Mall/Neighborhood Shopping Cluster.**

Outdoor stands are permitted as an accessory use to shopping malls/neighborhood shopping clusters in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, subject to the following provisions:

**9.37.6.1.** The principal sale of items at an outdoor stand shall be limited to either fresh produce, hot dogs, coffee, ice cream or Italian ice and fudge. The sale of any other items shall be incidental and limited to no more than ten percent of the display area or ten percent of sales.

**9.37.6.2.** Only one outdoor stand shall be allowed per site. The stand shall not be required to be a permanent structure and may be located upon a trailer. When located upon a trailer, skirting shall be installed around the perimeter to screen the wheels, axles and towing hitch from view.

**9.37.6.3.** The stand area, inclusive of display counters and awnings, shall not exceed four hundred (400) square feet for produce stands and shall not exceed one hundred fifty (150) square feet for hot dog, coffee, ice cream and Italian ice and fudge stands. Refrigeration units may be utilized within the stand area. The location of the stand on the site shall comply with minimum district yard regulations for principal use structures.

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

**9.37.6.4.** Produce stands shall be temporary and may be operated for a period of time not to exceed 180 days annually. The dates of operation shall be limited to between May 1 and November 1 each year. Hot dog, coffee, ice cream and Italian ice and fudge stands may be operated year round but shall not be left on the property overnight and must be removed daily.

**9.37.6.5.** All stands shall comply with applicable Dare County Health Department regulations and permitting requirements.

**9.37.6.6.** When located on a site with fifty (50) or more existing parking spaces, no additional parking spaces will be required. When located on a site with less than fifty (50) parking spaces a minimum of three (3) off-street parking spaces in accordance with parking regulations of this UDO shall be provided.

**9.37.6.7.** When the regulations contained in the subsection are in conflict with the general regulations of Town Code Chapter 12, Article III, Peddlers and Itinerant Merchants, the provisions of this UDO shall prevail.

### **9.37.7. Wastewater Treatment Plants.**

Wastewater treatment plants designed and constructed for the use of residences or other building projects other than municipal or public community-wide waste treatment facilities are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to the following provisions:

**9.37.7.1.** The wastewater treatment plant shall meet the minimum regulations of the appropriate regulatory agencies of the state, and the additional requirements of this section.

**9.37.7.2.** Excepting the drainfield, the wastewater treatment plant shall be located within or adjacent to the principal building which it is designed to serve. For the purposes of this section, the principal building is defined as the facility creating the greatest number of gallons of wastewater requiring treatment. The maximum distance of such treatment plant from the principal building shall be the number of feet measured from the building to the nearest property line or fifteen (15) feet, whichever is less.

**9.37.7.3.** Excepting the drainfield, no part of the wastewater treatment plant shall be located closer than thirty (30) feet to any adjoining property line. Adjoining property line is defined as the boundary line of any adjoining property, the ownership of which is not identical to the property on which such plant is located. If an adjoining lot is owned by the identical owners as the land upon which such plant is located and any portion of the adjoining lot is contained within the maximum distance required by this section, both lots shall be combined into one single lot of record, and a plat combining such lots shall be recorded in the Dare County Register of Deeds prior to the issuance of a building permit.

**9.37.7.4.** Excepting the drainfield, in no event shall any part of a wastewater treatment plant be located closer to an adjoining building than to the principal building served by the plant.

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

**9.37.7.5.** The exterior of the wastewater treatment plant shall be architecturally compatible with the other building or buildings in the development and shall be screened in the manner which will cause it to resemble the principal structure or structures in the project.

**9.37.8. Heliports, Accessory to a Hospital.**

Hospitals shall have an on-site heliport as an accessory use in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, provided that the following conditions are met:

**9.37.8.1.** Submission of a special use application with the Town planning and development department in addition to the following materials:

**9.37.8.1.1.** A site plan prepared in accordance with the applicable section provisions of Article 4 Development Review Process, including a map showing the locations, height and first floor elevations or foundation elevations above mean sea level of all structures, utility and street rights-of-way, existing power lines, towers, undeveloped residential lots, and other similar uses within the approach and protection area or within five hundred (500) feet of the center of the helicopter landing pad, whichever is the greater distance. The names and addresses of all property owners within this area shall be provided by the applicant.

**9.37.8.1.2.** Proposed heliport lighting plan demonstrating the technology and technique for retaining light on the site and prevention of light or light glare from affecting traffic using streets and highways in the area. Lighting of the helipad or final approach and takeoff areas shall 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.

**9.37.8.1.3.** Proposed approach and departing flight paths shall be shown on the site plan.

**9.37.8.1.4.** The use of sound buffers, proper facility siting, separation distances or other natural or manmade barriers as identified in FAA Heliport Design Advisory Circular 150/5390 2, Aviation Noise Effects, FAA-EE-85-2; Noise Control and Compatibility Planning for Airports, FAA AC 150/5020-1; and Airport Noise Compatibility Planning 14 CFR Part 150 Revised January 18, 1985, or the most recent design advisory circular shall be made a part of the hospital approval process.

**9.37.8.2.** The heliport shall be ground based only. No roof top facility shall be permitted.

**9.37.8.3.** The heliport shall comply with the latest edition of the FAA regulations in its design, size and use.

**9.37.8.4.** The hospital special use application shall not be considered for Town approval until the Town has received either tentative or final approval from the FAA, and all other required federal, state, and local approvals.



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**9.37.8.5.** No fixed based operations or refueling facilities shall be permitted on the hospital heliport site.

**9.37.8.6.** The helipad shall be situated in such a manner as to minimize the impact on adjacent residential land uses.

**9.37.8.7.** Heliport setbacks shall be:

**9.37.8.7.1.** From US 158 right-of-way: Two hundred (200) feet.

**9.37.8.7.2.** From any residential lot line: Three hundred (300) feet.

**9.37.8.7.3.** From any commercial lot line: Minimum seventy (70) feet.

### **9.37.9. Hospitals.**

Hospitals shall be permitted in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, provided that the following conditions are met:

**9.37.9.1.** The minimum land area for a hospital shall be ten (10) acres.

**9.37.9.2.** The minimum frontage along US 158 shall be five hundred (500) feet.

**9.37.9.3.** The maximum number of beds shall be fifty (50).

**9.37.9.4.** The hospital building or any accessory building shall not be located in any special flood hazard areas inundated by the 100-year flood.

**9.37.9.5.** No portion of the building shall be farther than two hundred (250) feet or closer than fifty (50) feet to a fire hydrant.

**9.37.9.6.** Fire hydrants shall be protected from traffic in accordance with Section 20-1 of the Town Code and shall be marked with strips on the pavement within the protected area.

**9.37.9.7.** The hospital shall be sprinkler protected in accordance with Section 20-121 of the Town Code. A fire flow test of the water supply for the sprinkler system serving or intended to serve the structures shall be conducted at the developer's expense by the Town fire department or by an independent testing firm. If the test is conducted by an independent testing firm, it shall be made under the direct supervision of the Town fire chief or his designee. A fee, in accordance with the most recently adopted consolidated fee schedule, shall be paid by the developer. If the flow is found to be deficient according to the insurance service office standards applicable to the Town, the developer shall bring the fire flow up to the requirements set out in the insurance service office standards. The fire flow test shall be made prior to the issuance of a building permit.

**9.37.9.8.** A 26-foot wide paved vehicular access along all four sides of the principal structure shall be provided, suitable for aerial operations, firefighting, and rescue equipment. The edge of

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

the paved access nearer the structure shall be no closer than fifteen (15) feet nor farther than thirty (30) feet from the sides of the structure. Fire apparatus access drive-aisles shall be marked with permanent "NO PARKING-FIRE LANE" signs. All access drive-aisles shall meet the Town turn radius standards, as determined by the Town Engineer.

**9.37.9.9.** A buffer consisting of a 25-foot wide Commercial Transitional Protective Yard as prescribed in Article 10, Part VI, Commercial Design Standards shall be placed between the hospital building, including any accessory uses, and any adjacent residential development, open space, or Town street. A buffering plan shall be submitted with the special use application.

**9.37.9.10.** Hospital building setbacks shall be:

**9.37.9.10.1.** From US 158 right-of-way: Forty (40) feet.

**9.37.9.10.2.** From any residential use: One hundred (100) feet.

**9.37.9.10.3.** From any commercial use: Fifty (50) feet.

**9.37.9.11.** The maximum building height shall be forty-five (45) feet.

**9.37.9.12.** There shall be no outdoor storage of any materials.

**9.37.9.13.** Hospitals may have signage in accordance with Article 10, Part III, Sign Regulations of this UDO.

**9.37.9.14.** Access for emergency and service vehicles shall be from US 158 only.

**9.37.9.15.** There shall be no disposal or incineration of any toxic wastes either on-site or in the sewage treatment plant that serves the site.

**9.37.9.16.** An evacuation plan/critical facilities plan shall be developed by the applicant and accepted by the Board of Commissioners prior to the issuance of the certificate of occupancy, and shall be consistent with Town, community rating system (CRS), and state and local emergency management plans.

**9.37.9.17.** Hospitals may have detached medical offices as an accessory use on-site, provided the following conditions are met:

**9.37.9.17.1.** The building setbacks shall be:

**9.37.9.17.1.1.** From the US 158 right-of-way: Forty (40) feet.

**9.37.9.17.1.2.** From any residential use: Fifty (50) feet.

**9.37.9.17.1.3.** From any commercial use: Fifty (50) feet.

**9.37.9.17.2.** The maximum building height shall be thirty-five (35) feet.

**9.37.10. Telephone Switching Station and Electric Substation.**

Telephone switching stations and electric substations are allowed as a special use in accordance with Section 9.36, Table of Uses and Activities for the SPD-C District, provided that:

**9.37.10.1.** The utility structure shall meet the development standards of the district in which it is located including, but not limited to, setbacks, open space requirements, height, and buffer requirements.

**9.37.10.2.** No open storage is allowed.

**9.37.10.3.** All utility structures requiring a building permit shall be architecturally designed to conform to the district in which they are located.

**9.37.10.4.** All utility structures shall be visually buffered from all adjacent properties and rights-of-way utilizing a 10-foot wide Commercial Transitional Protective Yard as prescribed in Article 10, Part VI, Commercial Design Standards.

**9.37.10.5.** Should the use for which the structure was allowed be discontinued, then the property upon which the structure is located shall be subject to the allowed uses and all development standards of that district.

**9.37.11. Portable Storage Units/Temporary Construction Trailers.**

**9.37.11.1.** Trucks, trailers, semi-trailers (self-propelled or detached) and prefabricated cargo shipping containers or similar containers shall not be used as a storage or other type of accessory structure in any zoning district, except as provided for under this section.

**9.37.11.2.** Following a storm event for which a state of emergency has been declared in accordance with Chapter 14 of the Town Code of Ordinances, trucks, trailers, semi-trailers (self-propelled or detached), and prefabricated cargo shipping containers may be stored temporarily on a site to store merchandise removed from the damaged structure, provided a storm related building permit has been issued to repair the structure. Trucks, trailers, semi-trailers, and prefabricated cargo shipping containers may be located in any required parking area or drive aisle. Trucks, trailers, semi-trailers, or prefabricated cargo shipping containers shall be allowed onsite for a time period not to exceed six months from date of building permit issuance and shall be removed prior to issuance of the building permit certificate of completion.

**9.37.11.3.** Temporary, self-contained storage units used in moving services, including “PODS” which are intended to be picked up and moved to various locations on demand shall be allowed on a parcel for up to thirty (30) days with a zoning permit. Such storage units must be stored within the property boundary and shall be placed so as not to interfere with traffic or as to create a traffic hazard on an adjacent street.

**9.37.11.4.** Mobile magnetic resonance imager(s) (MRI), health or other medical vehicles providing mobile health services, and book mobiles when approved by the Town Manager as

## ARTICLE 9. THE VILLAGE AT NAGS HEAD SPD-C ZONING ORDINANCE

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customary, mobile services or as part of a crown gathering or special events permit are specifically excluded from this regulation.

**9.37.11.5.** Nothing in this section shall apply to any vehicle stored in compliance with applicable Town codes. This regulation shall not be interpreted to prohibit the timely unloading and loading of commercial trailers or boat trailers in any district.

### SECTION 9.38 – 9.40 RESERVED.