



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

WHEREAS, The Board finds that in order to bring in amusement rides within the Outdoor Recreation Overlay District which are not governed by a Crowd Gathering or Special events permit, it is necessary to create some flexibility in the lighting ordinance while keeping the protection of the night sky as a goal.

WHEREAS, The Ordinance already states that, "Light fixtures for the recreational use shall be turned off no later than 11:30 p.m." (48-328); and

WHEREAS, The Land Use Plan States that,

- "The Town desires to build an economy based on family tourism;" and
- The Town desires to support local business owners; and

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

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that Chapter 48, Zoning, of the Code of Ordinances shall be amended as follows:

PART I. That **Section 48-445(d) Conditional Commercial-Outdoor Recreational Uses, paragraph (1)**, be amended as follows:

- d. Outdoor Amusement Rides and Games, including Ferris Wheels, as an Accessory Use to the uses listed in Section 48-445 (d)(1), subsections a and b. Additionally:
1. The parcel upon which the amusements are located must have a minimum lot size of 3 acres.
 2. Amusement Rides, including Ferris Wheels, shall be permitted in accordance with Town Code Section 48-81(b)(6), Exclusions from Height.
 3. Amusement Rides of a height taller than 35' shall be limited to one and shall be set back a minimum distance of 1.1 times the amusement ride height from all property lines and rights-of-ways. All amusement rides, regardless of height, shall be setback a minimum of 20 ft. from all property lines and rights-of-ways.
 4. Where an established mature vegetative buffer of 10 ft. in height does not exist, a fence of 10 ft. in height shall be constructed along all property lines abutting a residential use.
 - ~~4.5.~~ Proof of compliance with all state and federal regulations will be furnished to the Town upon request.

PART II. That **Section 48-328(e), Lighting of Outdoor Recreation Facilities**, be amended as follows:

(7) Outdoor Amusement Rides below 35 ft. in height shall be exempt from the lighting ordinance. These exemptions shall apply between the hours of 9:00 am and 11:30 pm and between the dates of May 15 and September 15.

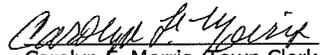
(8) One ride over 35' in height per site shall be exempt from the lighting ordinance. The exemptions of paragraphs (7) and (8) shall apply between the hours of 9:00 am and 11:30 pm and between the dates of May 15 and September 15. This exemption shall expire on and shall be reviewed no later than November 6, 2013.

PART III. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 16th day of January 2013.



Robert O. Oakes, Jr., Mayor
Town of Nags Head

ATTEST:


Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: January 16, 2013

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS

