



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

**ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 48 of the Town's Code of Ordinances (the "Town Code"); and

**WHEREAS**, pursuant to N.C.G.S. § 160A-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

**WHEREAS**, a zoning ordinance text amendment was drafted by Planning Staff and initiated by the Planning Board as relates to granting of minor administrative adjustments to specified zoning dimensional requirements; 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; and

**WHEREAS**, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town's Zoning Ordinance and Town Code of Ordinances as stated below.

**ARTICLE II. Construction.**

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses ("...") shall remain as they currently exist within the Town Code.

**ARTICLE III. Amendment of Zoning Ordinance.**

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

PART I. That Section **48-529, Administrative Adjustment**, be added as follows:

**48-529. - Administrative Adjustment**

(a) Purpose

The purpose of this section is to provide an administrative mechanism for allowing minor variations, or adjustments, to certain dimensional requirements or numerical standards (i.e., setbacks, parking etc.) of the zoning provisions based on specific standards, with the intent of providing relief where application of a requirement or standard creates practical difficulties in allowing development that would otherwise advance the purposes served by the standards and is compatible with the surrounding area.

(b) Timing

- (1) An administrative adjustment may be requested either as a stand-alone application or in conjunction with other application(s).
- (2) If an administrative adjustment application is submitted in conjunction with another application, it shall be reviewed and decided prior to the other application. (For

example, if an administrative adjustment application is submitted in conjunction with a site plan application because the administrative adjustment is needed to achieve the plan for development in the site plan, the administrative adjustment application shall be reviewed and decided upon prior to review of the site plan application.)

(c) Applicability.

Administrative adjustment requests may be granted by the Planning Director or his or her designee only for the following requirements or standards:

- (1) Modifications in a minimum yard by up to 10 percent of the setback requirement;
- (2) Modifications to non-residential parking requirements by no more than two spaces; and,
- (3) Modifications to the building height by no more than six inches of the maximum limitation of the district in which the structure is located. This only applies in instances where an error occurred during the construction process.

(d) Administrative Adjustment Review Standards

An application for an administrative adjustment shall be approved upon finding that the applicant demonstrates that all of the following standards are met:

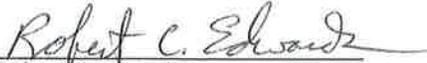
- (1) The administrative adjustment does not exceed the limitations established in subsection (c) of this section;
- (2) The administrative adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses;
- (3) The administrative adjustment is consistent with one or more of the following purposes:
  - (a) Compensates for some unusual aspect of the site or the proposed development that is not shared by landowners in general;
  - (b) Supports an objective or goal of the zoning district where it is located;
  - (c) Saves healthy existing trees; or
  - (d) Is necessary to rectify a building siting or placement error that occurred subsequent to the issuance of a building permit where the noncompliance occurred in good faith and through no fault of the property owner.
- (4) The administrative adjustment will not pose a danger to the public health or safety;
- (5) Any adverse impacts will be mitigated, to the maximum extent practicable; and
- (6) The site is not subject to a series of multiple, incremental administrative adjustments that result in a reduction in development standards by the maximum allowed.
- (7) The administrative adjustment is not designed to increase the building footprint of structures or the overall intensity of development.

(e) Expiration of Development Approval

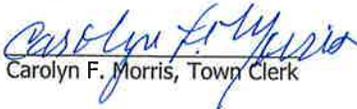
Unless otherwise specified in the approval, an application for a building permit shall be approved within one year of the date of the approval of the administrative adjustment, or the administrative adjustment shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

PART II. Staff will provide a report to the Board of Commissioners on a monthly basis describing the number and type of approvals issued under this ordinance.

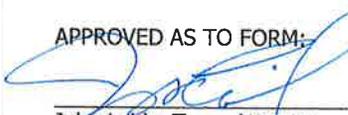
PART III. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 7<sup>th</sup> day of October 2015.

  
Robert C. Edwards, Mayor

ATTEST:

  
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

  
John Leidy, Town Attorney



Date adopted: October 7, 2015

Motion to adopt by Commissioner \_\_\_\_\_

Motion seconded by Commissioner \_\_\_\_\_

Vote: \_\_\_\_\_ AYES \_\_\_\_\_ NAYS